

Title 13

PUBLIC SERVICES

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Chapter 13.01

WATER, SEWER, DRAINAGE SYSTEM CONSTRUCTION STANDARDS

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13.01.010 Adoption of Water, Sewer, Drainage and Appurtenant Facilities Standards. The City of Sisters does hereby adopt the regulations and standards set forth in the public works construction standards for the City of Sisters Publication dated November 11, 1999. (Ord 231, 1990; amended by Ord 297, 1999; amended by Ordinance 298, 1999, amended by Ordinance 325, 2001)

13.01.020 Water, Sewer, Drainage and Appurtenant Facilities Construction. All construction of water, sewer, drainage and appurtenant facilities systems, extensions or connections within the City of Sisters shall be in conformance with the regulations and standards set forth in the publication entitled "Public Works Construction Standards for the City of Sisters" dated November 11, 1999 and as may amended hereinafter. Public work standards may be obtained from City Hall upon request at a fee established by the City Council. (Ord. 231, 1990; amended Ord 297, 1999; amended by Ord 298, 1999, amended by Ord 325, 2001.)

Chapter 13.04

WATER SERVICE AND GARBAGE DISPOSAL¹

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- 13.04.200 Violation -- Penalty.

13.04.015 Outside-City Service. Service to customers outside the City limits may be provided at the option of the City Council. Such service, when provided, shall be provided subject to the following conditions:

- (1) The quantity of water supplied is the amount of excess water available, as determined by the Council, and outside service may be reduced or discontinued at any time.

¹ For statutory provisions on the authority of cities to own and operate waterworks, see ORS 225.020.

(2) Pressure and other conditions are to be at the risk of the customer without guarantee, and the City shall have no liability for failure to provide service or for any failure of the system.

(3) A customer shall comply with and be bound by the provisions of the Sister's Code and resolutions regulating and governing water use.

(4) Said sale of water to be made to residents outside the corporate limits of the City of Sisters only so long as said water is available without detriment to the residents inside of the City.

(5) The city reserves the right to cut off the supply of said water to the residents outside of said City, if such action becomes necessary to conserve sufficient water to provide for residents inside of said City.

(6) That there shall be a meter installation charge as set by resolution or actual costs, whichever is greater, to the use of said water.

(7) That the monthly rate for the water to be 1 ½ times that of the rate charged for user of water within the corporate limits of the City.

(8) That said water supplied to a resident outside of said City shall be used only for house use, unless otherwise approved by the Council, and no part thereof is to be used for irrigation or other purposes, unless otherwise approved by the Council, except that all uses of City water which have or now will be used may be continued with the express approval of the Council on such terms and conditions as may be required by the Council.

(9) The party desiring to hook onto City water shall disconnect his present water system from its then source, so that there shall be no connection or infiltration from the resident's then water system with the City's water system. Before the City shall connect City water to said resident, an inspection shall be made by the City inspector to determine that said disconnect has been made.

(10) The party desiring to hook onto City water shall pay all costs incurred in supplying water to said resident.

(11) All private supply lines from wells or other private water sources shall be separate from any main or service pipes where the City public water supply is distributed or stored. There shall be an air gap of not less than six inches between all private water supplies or pipe lines and the pipes carrying City water. (Ord. 164, 1984.)

Chapter 13.12

WATER RATES, CHARGES, RULES AND REGULATIONS

Sections:

13.12.010	Definitions of General Terms.
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13.12.040	Main Extensions.
13.12.050	Services.
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13.12.070	Water Rates.
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13.12.010 Definitions of General Terms.

(1) City. Whenever the word "City" is used, it shall mean the legally constituted municipal government of the City of Sisters, Deschutes County, Oregon.

(2) Water Department. Whenever the words "Water Department" are used, they shall mean the Water Department of the City of Sisters, Oregon.

(3) City Council. Whenever the words "City Council" are used, they shall mean the legally elected group of members composing the City Council, including the Mayor, of the City of Sisters, Oregon.

(4) Public Works Superintendent. Whenever the words "Public Works Superintendent" are used, they shall mean the person appointed by the City Council to superintend the affairs of the Water Department.

(5) Applicant. Whenever the word "applicant" is used, it shall mean the person or

persons, firm or corporation, making application for water service from the Water Department under the terms of these regulations.

(6) Customer or user. Whenever the words "customer" or "user" are used, it shall mean the applicant who has been accepted under the terms of these regulations and who receives water service from the Water Department. (Amended by Ord 256B, 1996).

13.12.020 Service Area. The area served by the Water Department shall be all that area included within the corporate limits of the City of Sisters and such other contiguous and neighboring territory as the City Council shall, from time to time, deem necessary to serve.

The Water Department shall not be liable for damage resulting from the interruption in service or from the lack of service. Temporary suspension of service by the Water Department for improvements and repairs will be necessary occasionally. Whenever possible, and when time permits, all customers affected will be notified prior to shutdowns.

(1) Quality. The Water Department will exercise reasonable diligence to supply safe and potable water at all times.

(2) Ownership of System. All water mains, valves, fittings, hydrants and other appurtenances, as defined in section 13.12.060, except "customer service lines", shall be the property of the Water Department.

(3) Classes of Service. The classes of service shall be Residential, Commercial, Standby Fire and Contract as further qualified by the number after the class as follows:

1. Inside City Limits
2. Outside City Limits

(a) Residential Service. Residential services shall consist of all services for domestic purposes, single family dwellings, homes and municipal purposes.

(b) Commercial Service. Commercial services shall consist of those services where water is used for commercial services, such as businesses and multi-family dwellings.

(c) Standby Fire. Standby fire service shall consist of those services where water is available or used for fire protection only.

(d) Contract Service. Contract services shall consist of those services for industrial or independent water district purposes under contract authorized by the City Council.

(4) Special Contracts. When the applicant's requirements for water are unusual or large, such as in independent water district, or necessitate considerable special or reserve equipment or capacity, the Water Department, by authorization of the City Council, reserves the right to make special contract, the provisions of which are different from and have exceptions to the regularly

published water rates, rules and regulations. This special contract shall be in writing, signed by the applicant and approved by the City Council and City Attorney and signed by the Mayor and City Recorder of the City of Sisters.

(5) Resale of Water. Resale of water shall be permitted only under special contract, in writing, between the City Council and the persons, parties, or corporation purchasing water.

(6) Service Preference. In case of shortage of supply, the Water Department reserves the right to give preferences in the matter of furnishing service to customers and interests of the Water Department from the standing of public convenience or necessity. Water service to users outside of the city limits shall at all times be subject to the prior and superior rights of the customers within the city limits. (Amended by Ord 256B, 1996)

13.12.030 Application for Service.

(1) Application form. Each applicant for water service shall sign an application form provided by the Water Department giving the date of application, location of premises to be served, the date applicant desires services to begin, purpose for which service is to be used, the address for mailing of the billings, the class and the size of the meter service and such other information as the Water Department may reasonably require. In signing the application, the customer agrees to abide by the rules and regulations of the Water Department. The application is merely a written request for service and does not bind the Water Department to serve.

(2) Deposits and establishment of credit. At the time application for service is made, the applicant shall establish his credit with the Water Department.

(a) Establishment of credit. The credit of the applicant will be deemed established when the applicant shall make a cash deposit with the Water Department to secure the payment of bills for service. The deposit shall be a sum equal to the estimated bill for two months service but not less than an amount to be established by City Council resolution and published in the current water rate schedule.

(b) Deposits. At the time the deposit is given to the Water Department, the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in excess of the closing bill will be refunded. The Water Department will not pay interest on any deposit.

(c) Forfeiture of Deposit. If an account becomes delinquent and it is necessary to turn off the service, the deposit shall be applied to the unpaid balance due. Water service will not be restored to that premises or that customer at different premises until all outstanding bills due the Water Department have been paid and the cash deposit replaced, together with a service charge as provided in section 13.12.050.

(3) Applicant Amendments. Customers desiring a material change in the size, character,

or extent of equipment or operation which would result in a material change in the amount of water used shall give the Water Department written notice of such change prior to the change and the application for service shall be amended. Customers desiring a change in the size, location, or number of services shall fill out an amended application. (Amended by Ord 256B, 1996)

13.12.040 Main Extensions.

(1) Within the city limits. Water main extensions to areas within the city limits not presently served with water shall be installed pursuant to the City of Sisters' Public Works Standard. Subdividers for newly partitioned properties will assume all costs of water main extensions and all appurtenances.

(2) Outside the city limits. Water mains outside the city limits shall be extended only at the expense of the customers served. The main extensions and appurtenances shall become the property of the City of Sisters after all requirements in the Public Works Standards have been completed. The City shall approve the size of the main extensions. The installation procedures and material use shall be in accordance with the City of Sisters Public Works Standards and the State of Oregon Standards.

(3) Locations of extensions. The Water Department will approve water main extensions only on rights-of-way, easements, or publicly owned property. Easements or permits secured for main extensions shall be obtained in the name of the City of Sisters, along with all rights and title to the main at the time the service is provided to the customers paying for the extension. (Amended by Ord 256B, 1996)

13.12.050 Services.

(1) Definition. The "service connection" shall be that part of the water distribution system which connects the meter to the main and shall normally consist of corporation stop, service pipe, two angle meter stops, meter, and meter box. The "customer service line" shall be that part of the piping on the customer's property that connects the service to the customer's distribution system.

(2) Ownership, installation, and maintenance. The Water Department shall own, install and maintain all services and installation and maintenance shall only be performed by authorized employees of the Water Department. The customer shall own, install, and maintain the customer service line.

(3) Service connection charge. When an applicant files for service where no service previously existed, or if the applicant is filing for a change in service size or location, the applicant will be assessed a charge to cover the actual cost to the Water Department to install the service from the main to, and including, the meter and the meter housing. The service connection charge shall be as determined by the Water Department in the current published water rate resolution.

(4) Size of service. The Water Department will furnish and install a service of such size

and at such locations as the applicant requests, provided such requests are reasonable and that the size requested is one that is listed by the Water Department. The minimum size of service shall be three-fourths inch (3/4 inch). The Water Department may refuse to install a service line which is undersized or oversized as determined by a study and report of the Public Works Superintendent.

(5) Changes in service size. Permanent changes in the size of the service line requested by the customer shall be paid by the customer on the basis of actual cost to the Water Department plus fifteen percent (15%), for making the change.

(6) Length of service. Where the main is in a public right-of-way, the meter will be placed at the right-of-way line nearest to the property to be served for the standard connection fee, provided the length of service line does not exceed the width of the right-of-way.

Where the main is on an easement or publicly owned property other than designated rights-of-way, the services shall be installed to the boundary of the easement, or public property by the Water Department, provided the length of service does not exceed thirty (30) feet.

If, in either case cited above, the length of service line to the meter location exceeds the maximum stated, the applicant shall pay the extra cost of the line on the basis of actual cost to the Water Department for labor, materials, and equipment plus 15 percent(15%).

(7) Joint Service Connections. The Water Department may, at its option, serve two or more premises with one connection; however, the current minimum monthly fee and the bond repayment shall be charged for each dwelling unit. Overage shall be determined by the meter reading. On new service connections, the inside diameter of such joint lines shall be sufficient to provide a carrying capacity of not less than the combined capacity of individual service lines of the same size as the meters installed.

Service extensions from an existing service to other occupancies or ownerships than that for which the existing service was intended shall not be permitted nor shall separate residences be permitted to receive service through one meter except under special considerations approved by the City Council.

(8) Number of service connections on premises. The owner of a single parcel of property may apply for and receive as many services as he and his tenants may require, provided each dwelling unit pays the current monthly fee and bond repayment fee, and his application or applications meet the requirements of the policies, rules and regulations.

(9) Standby fire protection service connections.

(a) Purpose. Standby fire protection service connections of two inch size and larger will be installed only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing. Sealed fire sprinkler systems with water-operated alarms shall be considered as having such provisions. The Water Department requires that a suitable detector check meter be installed in the standby fire protection service connections, to which hose

lines or hydrants are connected. All piping on the customer's premises shall be installed in accordance with the plumbing code of the State of Oregon and City of Sisters Code Section 13.40.

(b) Charges for service. Charges for standby fire protection service will be stated in the published water rate resolution. No charge will be made for water used in the standby fire protection services to extinguish accidental fires or for routine testing of the fire protection system. The customers shall pay the full cost of the standby protection service connection, any required detector check meters, and any required special water meter installed for the service to the standby connection.

(c) Violations of regulations. If water is used from a standby pipe connection service in violation of these regulations, an estimate of the amount used will be computed by the Water Department. The customer shall pay two times the regular rate charged for water, including the minimum charge based on the size of the service connection and subsequent bills rendered on the basis of the regular water rates.

(10) Fire service connections other than standby. A service having fire protection facilities on the premises and water for other purposes flowing through the same service connection shall be considered as an ordinary service and metered as such. All water used through that service, regardless of its use, will be charged at the regular rates.

(11) Temporary service connections. For water service of a temporary nature, applicants shall be required to pay in advance the estimated cost of installation and removal of metering equipment and materials, plus a reasonable depreciation charge for the use of equipment and material furnished by the Water Department. The applicant shall also pay his water bill in advance and based on an estimate of the quantity to be used, or he shall otherwise establish satisfactory credit.

(a) Time Limit. Temporary service connections shall be disconnected and terminated within six months after installation unless an extension of time is granted in writing by the Water Department.

(b) Charge for water served. Charges for water furnished through a temporary service connection shall be at one and one half (1-1/2) times the established City rate set forth in the current water rate resolution.

(c) Installation charge and deposits. The applicant for temporary service will be required:

(A) To pay the Water Department, in advance, the estimated cost of installing and removing all facilities necessary to furnish each service.

(B) To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used, or to otherwise establish credit approved by the Water Department.

(C) To deposit with the utility an amount equal to the value of any equipment

loaned by the Water Department to such applicant under the terms of subsection 11(d) hereinafter.

(d) Responsibility for meters and installation. The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the Water Department. If the meter or other facilities are damaged, the cost of making repairs shall be deducted from the deposit fund. If the loaned materials are returned in satisfactory condition and all bills paid, the full amount of the equipment deposit will be returned to the temporary customer at the termination of service.

(12) Customer's plumbing.

(a) Plumbing code. The customer's plumbing, which shall include the customer's service line and all plumbing, piping, fixtures and other appurtenances carrying or intended to carry water, sewer, or drainage, shall comply with the plumbing code of the State of Oregon.

(b) Control valves. Customers shall install a suitable control valve in the customer service line as close to the meter as possible, the operation of which will control the entire water supply to the premises served. In the event a customer's service is discontinued for any reason, a control valve must be installed, if none exists, as provided by this section.

It shall be a violation of these rules and regulations for the customer to operate, cause or permit unauthorized operation of the meter stop or any appurtenances on the service connection. (Amended by Ord 256B, 1996)

13.12.060 Meters

(1) Ownership. The Water Department will own and maintain all water meters. The Water Department will not pay rent or any other charge for a meter or other water facilities, including housing and connections on a customer's premises.

(2) Installation. Installation of water meters shall be performed only by authorized employees of the Water Department. All meters shall be sealed by the Water Department at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

(3) The size and type of meter. Applicant may request and receive any size meter regularly stocked or furnished by the Water Department, provided the request is reasonable and further provided that the meter is not greatly oversized or undersized, as determined by the Public Works Superintendent. The Water Department reserves the right to determine the type of meter to be installed.

(4) Location of meters. Meters shall normally be placed at the curb or property lines; the meter will be installed wherever the applicant desires within reason, but the location must be approved by the Water Department. The meters will not be located in driveways or other locations where damage to the meter or its related parts may occur.

(5) Joint use of meters. The joining of several customers to take advantage of the single minimum charges and large quantity rates shall be prohibited, except under special contract, in writing, with City Council.

(6) Changes in size or location. If, for any reason, a change in the size of a meter and service is required, the installation will be accomplished on the basis of a new connection, and the customer's application shall be amended. Meters or services moved for the convenience of the customer will be relocated only at the customer's expense plus fifteen percent (15%). Meters and service shall be moved by Water Department personnel only.

(7) Meter reading. Whenever possible meters shall be placed in public right-of-way. Meters shall be accessible to meter reader at all times. No structure, fence or object shall be placed in public right-or-way that impedes meter reading access. (Amended by Ord 256B, 1996)

13.12.070 Water Rates. The water rates to be charged for each class of service, including minimum charges, charges for water used over the minimum, service connection charges, and all other charges including deposits shall be established by City Council resolution and known as the current adopted water rate resolution, which shall be maintained by the City Administrator's office. Upon request, the water rate schedule shall be made available to the public by the City Administrator. (Amended by Ord 256B, 1996)

13.12.080 Notices.

(1) Notices to customers. Notices from the Water Department to the customer will normally be given in writing and either mailed to or delivered to him at his last known address. Where conditions warrant and in emergencies, the Water Department may notify either by telephone or messenger.

(2) Notices from customers. Notices from customer to the Water Department may be given by the customer or his authorized representative orally or in writing at the office of the Water Department in the City Hall. (Amended by Ord 256B, 1996)

13.12.090 Billing and Payments.

(1) Meter readings. Meters will be read and customers billed on the basis of the meter reading. The Water Department will keep an accurate account on its books of all readings of meters and such account so kept shall be offered at all times, places, and courts as prima facie evidence of the use of water service by the customer.

(2) Rendering of bills.

(a) Billing period. All meters shall be read and bills rendered therefor monthly.

(b) Bills for other than normal billing period. Opening or closing bills shall be prorated and one-half (1/2) minimum charge plus usage above 5,000 gallons for a normal billing period.

(c) Bills for more than one meter. All meters supplying a customer's premises shall be billed separately, except that where the Water Department has for operating purposes installed two or more meters in place of one, the reading may be combined for billing.

(3) Disputed bills. When a customer disputes the correctness of a bill, he shall submit the dispute in writing to the Water Department and deposit the amount of the disputed bill at the time the complaint is lodged, to preclude discontinuance of service pending final settlement of the bill or bills. Subsequent bills shall be paid or placed on deposit in a similar manner. Failure of the customer to make such a deposit shall warrant discontinuance of service as provided under subsection (6) of this section.

(4) Failure to read meters. In the event that it shall be impossible or impractical to read a meter on the regular reading date, the water consumption shall be prorated on the basis of thirty (30) day per month and the total water consumption for billing purposes for that period shall be estimated.

(5) Payment of bills. Each bill rendered shall contain the final date on which payment is due. If the bill is not paid by that date, the account shall be considered delinquent, unless other arrangements have been made with the Water Department in writing that specify another due date.

(6) Delinquent accounts.

(a) Delinquent notice. A reminder of account delinquency may be sent, at the discretion of the City Recorder, to each delinquent account on or about ten (10) days after the account becomes delinquent.

(b) Disconnect notice. On or about fifteen (15) days after an account becomes delinquent, a second notice entitled "Disconnect Notice" shall be sent to the customer. Said notice shall state a date on which water will be turned off if the delinquent account is not paid in full prior thereto. At least 24 hours prior to the discontinuance of the water service for delinquency, a disconnect notice shall be left at the premises receiving the water service or if the water department personnel is unable to reasonably access the premises, notice shall be mailed to the customer. The disconnect notice shall state that water services shall be turned off unless all delinquent amounts and charges are paid. An administrative charge set by City Council resolution may be added to the account if the account has not been paid and a delinquency notice has been mailed to the customer or left at the premises receiving water services.

(c) If the customer disputes the amount due on the account, the customer shall have ten (10) days from the date of the second notice within which to file a written request to have the account reviewed by the City Administrator or the City Council. The request shall state the reasons why the customer believes the amount to be in error.

(A) Any customer seeking timely review of a water bill in writing shall be heard before discontinuation of water service. The hearing shall be held by the City Administrator or other person so designated by the City Council and may include a

hearing in front of the City Council. The decision by the City Administrator, person designated by the City Council or City Administrator, or the City Council itself, shall be final.

(B) After hearing, if the City Administrator or City Council's designate or the City Council finds in favor of the customer, any or all of the appropriate charges may be returned to the customer or credited to the customer's account based upon findings made at the hearing. If the City finds that the customer owes the City any money based upon the delinquent account, the customer shall pay the amount due within the time ordered by the City. If the amount is not paid, the water service shall be discontinued pursuant to the prior 15 day notice set out in subsection 6 (b).

(d) Service turn-off. On the turn-off date, the meter reader or other agent of the City of Sisters shall: (1) immediately thereafter turn off the service; (2) deliver written notice to the customer, or customer's premises, stating the water service is being turned off until all the delinquent amounts have been paid.

(e) Service charge. In all instances where water has been turned off because of delinquent accounts, a service charge, to be established by City Council resolution and listed in the current adopted water rate resolution, shall be made for the restoration of services and replacement of cash deposit as stated in section 13.12.030, will be required. The meter reader or other agent of the City is not authorized to receive City service payments.

(7) Installment payments of delinquent accounts. In cases of extreme hardship, the City Recorder shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment plan for the payment of the overdue amount, installment period not to exceed the period of time the account was delinquent. (Amended by Ord 256B, 1996)

13.12.100 Meter Error.

(1) Meter accuracy. All meters will be tested prior to installation. No meter will be placed in service or allowed to remain in service which is known to have an error in registration in excess of two percent (2%) under conditions of normal operation.

(2) Meter test.

(a) Standard test. Meter tests will be conducted in accordance with standards of practice established by the American Water Works Association.

(b) On customer request. A customer may, giving not less than seven days' notice, request the Water Department to test the meter servicing his premises. The Water Department will require the customer to deposit the testing fee. This fee shall be for meters three-fourth inch (3/4 inch) and smaller, and for meters larger than three-fourth inch (3/4 inch) shall be an estimate of the cost of testing the meter as determined by the Public Works Superintendent. The deposit will be returned to the customer if the test reveals the meter to over-register more than 2 percent (2%) under the

standard test conditions. Customers may, at their option, witness any meter tests which they request.

(3) Adjustments of bill for meter error.

(a) No credits or debits will be borne by the City or the customer should the tested meter show variance high or low, from the accuracy defined in subsection (1) except that should the test indicated in subsection (1) indicate in error in favor of the customer, the City will credit the customer's bill on a prorated basis from the date upon which the customer requested the meter test or from the date of the closest meter reading pursuant to subsection (2)(b).

(b) Nonregistering meters. The Water Department will bill the customer for water consumed while the meter was not registering. The bill 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 season and under similar circumstances and conditions. (Amended by Ord 256B, 1996)

13.12.110 Discontinuance of Service.

(1) On customer request. Each customer about to vacate any premises supplied with water service by the Water Department shall give the Water Department written notice of his intentions at least two days prior thereto, specifying the date service is to be discontinued; otherwise, he will be responsible for all water supplied to such premises until the Water Department shall receive notice of such removal.

At the time specified by the customer that he expects to vacate the premises where service is supplied, either temporarily or permanently or that he desires to be discontinued, the meter will be read and a bill rendered which is payable immediately. In no case will the bill be less than one half (1/2) of the monthly minimum specified in the schedule applying to the class or classes of service furnished.

(2) Nonpayment of bills. A customer's water service may be discontinued if the water bill is not paid in accordance with the procedures listed in Section 13.12.090 of these rules and regulations.

(3) Improper customer facilities.

(a) Unsafe facilities. The Water Department may refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances, or equipment using water are dangerous, unsafe or not in conformity with the plumbing code of the State of Oregon and City of Sisters Code Section 13.40.

(b) Cross connections. A cross connection is defined as any physical connection between the Water Department's system and another water supply. The Oregon State Health Division and the U.S. Environmental Protection Agency prohibit cross connections. The Water Department will

not permit any cross connection and will discontinue service to any persons or premises where a cross connection exists. Service will not be restored until the cross connection is eliminated, or proper backflow devices installed. Customers using water from one or more sources in addition to receiving water from the Water Department on the same premises shall maintain separate systems for each; and the Water Department's water supply facilities shall be separated from any and all other systems by an air gap of not less than one foot, or if in the ground, by not less than five feet.

(4) Water Waste. Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the Water Department may discontinue service if such conditions are not corrected after due notice by the Water Department.

(5) Service detrimental to others. The Water Department 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.

(6) Fraud or abuse. The Water Department will refuse or discontinue service to any premises where it is deemed necessary to protect the Water Department from fraud or abuse. Discontinuance of service for one or both of these causes will be made immediately upon receipt of knowledge by the Water Department that the condition or conditions exist.

(7) Unauthorized turn-on. Where water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. The charges for shutting off the water at the main or removing the meter shall be established by City Council resolution and listed in the current adopted water rate resolution. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the Water Department has reasonable assurance that the violation will not reoccur.

(8) Noncompliance with regulations. The Water Department may discontinue service to a customer's premises for failure to comply with any of the provisions of these regulations.

(9) Customer request for shut-off. Customer requests for shut-off and turn-on for maintenance purposes shall be charged an amount to be set by City Council resolution, per occurrence. A shut-off and turn-on shall be deemed to be one occurrence. If a customer installs a stop & waste valve on the customer's side of the meter, the customer shall not be charged for the shut-off and turn-on at the time of installation. Customer requests for shut-off and turn-on after normal working hours, including holidays and the weekends, for maintenance purposes, shall include a charge to be determined by City Council resolution pursuant to the current published water rate resolution, per occurrence. (Amended by Ord 256B, 1996)

13.12.120 Reconnection of Service. Reconnection of service after discontinuance for nonpayment of bills shall be made after payment of current and past due charges plus a reconnection charge as listed in the current published water rate resolution and posting a deposit, equal to the current public works standard, as hereinbefore provided.

Reconnection of service after discontinuance of service for unsafe facilities, water waste, fraud, abuse, or for noncompliance with any of the policies, rules and regulations will only be made after the irregularity has been corrected and the Water Department has been assured that the irregularity will not reoccur. The reconnection charge shall be the amount listed in the current adopted water rate resolution plus any other charges due or past due that the Water Department may have incurred to correct the irregularity. (Amended by Ord 256B, 1996)

13.12.130 Unusual Demands. When an abnormally large quantity of water is desired for filling a swimming pool, log pond, or for other purposes, requests must be made with the Water Department prior to taking such water.

Permission to take water in unusual quantities will be given only if the Water Department facilities and other customers are not inconvenienced. (Amended by Ord 256B, 1996)

13.12.140 Access to Property. All duly appointed employees of the Water Department, under the direction of the Public Works Superintendent, shall have reasonable access at all reasonable hours of the day to unoccupied or unattended dwelling units, including any and all parts of structures and premises in which water is or may be delivered for the purposes of reading meters, inspecting connections, the condition of conduits and fixtures, and the manner and extent in which the water is being used, if the employee has a reasonable belief that a water emergency exists or that the customer is using the water system in an unsafe or improper manner. In any event, the Water Department may inspect the customer's water system upon 24 hours written notice. The Water Department does not, however, assume the duty of inspecting the customer's line, plumbing and equipment, and shall not be responsible therefor. (Amended by Ord 256B, 1996)

13.12.150 Responsibility for Equipment.

(1) Responsibility for customer equipment. The Water Department shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the customer's line, plumbing or equipment, nor shall the Water Department be liable for loss or damage due to interruption of service or temporary changes in pressure. The customer shall be responsible for valves on his premises being turned off when the water service is turned on.

(2) Responsibility for Water Department equipment. Water Department equipment on the customer's premises remains the property of the Department and may be repaired, replaced or removed by the Department employees at any time without consent of the customer. No payment will be made to the property owner for the right to install, maintain, replace or remove Water Department equipment on his premises. The property owner must keep vicious dogs or other animals secured or confined to avoid interference with the utility operation and maintenance.

(3) Damage to Water Department equipment. The customer shall be liable for any damage to equipment owned by the Water Department which is caused by an act of the customer, his tenants, agents, employees, contractors, licensees, or permittees. Damage to equipment shall include but not be limited to breaking of seals and locks, tampering with meters, injury to meters, including but not limited to damages by hot water or steam, and damaged meter boxes, curb stops,

meter stops and other appurtenances. (Amended by Ord 256B, 1996)

13.12.160 Fire Hydrants.

(1) Operation. No person or persons other than those designated and authorized by the Water Department shall open any fire hydrant belonging to the Water Department, attempt to draw water from it or in any manner damage or tamper with it. Any violation of this regulation will be prosecuted according to law. No tool other than special hydrant wrenches shall be used to operate a hydrant valve. In cases where a temporary service has been granted and received water through a fire hydrant, an auxiliary external valve will be provided by the person requesting the temporary service to control the flow of water.

(2) Moving a fire hydrant. When a fire hydrant has been installed in the locations specified by the proper authority, the Water Department has fulfilled its obligation. If a property owner or other party desires to change the size, type, or location of the hydrant, he shall bear all costs of such changes. Any changes in the location of a fire hydrant must be approved by the Water Department and the Fire Department. (Amended by Ord 256B, 1996)

13.12.170 Penalties. Any person violating any of the provisions of these rules and regulations shall, upon conviction thereof, be punished by a fine not exceeding Five Hundred Dollars (\$500.00) per violation. (Amended by Ord 256B, 1996)

13.12.180 Suspension of Rules. No employee of the Water Department is authorized to suspend or alter any of the policies, rules and regulations cited herein without specific approval or direction of the City Administrator, except in cases of emergency involving loss of life or property or which would place the water system in jeopardy. (Amended by Ord 256B, 1996)

13.12.190 Easement. Each applicant and user gives and grants to the City of Sisters an easement and right-of-way on and across his property for the installation of water mains and the necessary valves and equipment in connection therewith. (Amended by Ord 256B, 1996)

Chapter 13.16

IRRIGATION

Sections:

- 13.16.010 Sale or irrigation rights by City.
- 13.16.020 Suspension of rights.
- 13.16.030 Irrigation season.
- 13.16.040 Sprinkling systems.

13.16.010 Sale of irrigation rights by City. The City may sell from irrigation water rights owned by it, or hereafter acquired, irrigation rights for any lot or parcel of land within the City, for such price and on such terms as may be fixed by the Council. No person shall use water from the City system for the irrigation or sprinkling of lawns, gardens or tracts without first having paid to the City Recorder the annual irrigation charge for such year. Having a hose, or other irrigation or sprinkling device attached to a water outlet shall be deemed conclusive evidence of use of water for irrigation purposes. When, in the judgment of the authorized City representative or proper City official, it may be necessary to restrict the use of water for irrigation purposes, the City may require that no hose shall be used for irrigation or sprinkling purposes without a nozzle attached, and no hose larger than three-fourths (3/4) inch or with an opening of more than one-half (1/2) inch shall be used. (Ord 91 §22, 1976)

13.16.020 Suspension of rights. The Council may suspend the right to irrigate or sprinkle whenever, in the opinion of the Council, a public emergency may require it. (Ord 91 §23, 1976)

13.16.030 Irrigation season. Notice of the commencement of irrigation season and the termination thereof shall be given annually by the City Recorder by publication of a written notice in the newspaper published in the county promptly upon the determination of each of such dates. No water shall be used for irrigation or sprinkling of lawns, gardens or tracts except during such irrigation season and the Common Council may establish hours for the use of water for irrigation of lawns and other irrigation purposes to conserve the water supply or to furnish ample pressure. (Ord 91 §24, 1976)

13.16.040 Sprinkling systems. Sprinkling systems may be installed in or upon any property, but not to exceed seven (7) heads of water for any such system shall be turned at any one time, no head to have a connection exceeding one-half (1/2) inch. (Ord 91 §25, 1976)

Chapter 13.20

SYSTEMS DEVELOPMENT CHARGES

Sections:

- 13.20.010 Purpose.
- 13.20.020 Scope.
- 13.20.030 Definitions.
- 13.20.040 System Development Charge Imposed; Method for Establishment Created.
- 13.20.050 Methodology.
- 13.20.060 Authorized Expenditures and Restrictions.
- 13.20.070 Improvement Plan.
- 13.20.080 Collection of Charge.
- 13.20.110 Exemptions.
- 13.20.120 Credits.
- 13.20.140 Notification/Appeal
- 13.20.170 Annual Accounting.

13.20.010 Purpose The purpose of this ordinance is to provide authorization for system development charges for capital improvements pursuant to ORS 223.297 - 223.314 for the purpose of creating a source of funding for existing system capacity and for the installation, construction and extension of capital improvements. These charges shall be collected either at the time of connection, the time of increased usage or at the time of permitting development of properties which increase the use of capital improvements and generate a need for those facilities. (Ord 104 §1, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000.)

13.20.020 Scope. The system development charges imposed in this ordinance are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord 104 §8, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000.)

13.20.030 Definitions. For purposes of this ordinance, the following definitions shall apply:

Capital Improvements. Facilities or assets used for:

- (A) Water supply, treatment and distribution;
- (B) Sewage and wastewater collection, transmission, treatment and disposal.
- (C) Drainage and flood control;
- (D) Transportation; or
- (E) Parks and recreation.

Development. Conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, or creating or terminating a right of access.

Improvement fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to this ordinance.

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

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

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

Permittee. The person to whom a Building Permit, Development Permit, or Right-of-Way Access Permit is issued.

Qualified public improvement. A capital improvement that is:

- (A) Required as a condition of development approval;
- (B) Identified in the System Development Charge Fund Project Plan; and
- (C) Not located on or continuous to a parcel of land that is the subject of the development approval, or located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

Reimbursement fee. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to this ordinance.

System development charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. "System development charge" does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. (Ord 104, §2, 1978, amended by Ord 243, 1991, amended by Ord. 243-A, 1996, amended by Ord 300, 2000)

13.20.040 System Development Charge Imposed; Method for Establishment Created.

(A) Unless otherwise exempted by the provisions of this ordinance or other local or state law, a systems development charge is hereby imposed upon all development within the designated areas of the City of Sisters.

(B) Systems development charges shall be established and may be revised by resolution of the City Council. The resolution shall set the amount of the charge, the type of permit to which

the charge applies, the methodology used to set the amount of the charge and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge. (Ord 104, §2, 1978, amended by Ord 243, 1991; amended by Ord 243-A, 1996, amended by Ord 300, 2000)

13.20.050 Methodology

(A) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the Commission. The methodology shall promote the objective that future systems users shall contribute not more than an equitable share of the cost of then-existing facilities.

(B) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the City Council.

(C) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution. (Ord 104, §2, 1978; amended by Ord 243, 1991; amended by Ord. 243-A, 1996, amended by Ord 300, 2000)

13.20.060 Authorized Expenditures and Restrictions.

(A) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(B) Improvement fees:

- (1) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to demands created by current or projected development.
- (2) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Systems Development Charge Fund Project Plan adopted by the City.

(C) System development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds. (Ord 104, §2, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000)

13.20.070 Improvement Plan.

(A) The City Council shall adopt by resolution the Systems Development Charge Fund Project Plan. This Plan shall:

- (1) Define the amount of current or under construction capacity available for new development and the cost of the facilities comprising this capacity.
- (2) Lists the capital improvements that may be funded with improvement fee revenues; and
- (3) Lists the estimated cost and time of construction of each improvement.

(B) In adopting this plan, the City Council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. The city may modify this project plan at any time through the adoption of an appropriate resolution. (Ord 104, §2, 1978, amended by Ord 243, 1991; amended by Ord. 243-A, 1996, amended by Ord 300, 2000)

13.20.080 Collection of Charge.

(A) The systems development charge is payable upon issuance of:

- (1) A building permit;
- (2) A development permit for development not requiring the issuance of a building permit;
- (3) Approval to connect or increase the usage of the system or systems provided by the city; or
- (4) A right-of-way access permit.

(B) The resolution which sets the amount of the charge shall designate the permit or systems to which the charge applies.

(C) If development is commenced or connection is made to the systems provided by the city without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

(D) The city community development director or his/her designee shall collect the applicable system development charge from the permittee or system user.

(E) The city community development director or his/her designee shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless an exemption is granted pursuant to this ordinance.

(F) All moneys collected through the system development charge shall be retained in a separate fund and segregated by type of system development charge and by reimbursement vs improvement fees. (Ord 104, §2, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000)

13.20.110 Exemptions.

(A) Structures and uses established and existing on or before the effective date of the resolution.

(B) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the city's building code are exempt from all portions of the system development charge.

(C) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a capital improvement are exempt from all portions of the system development charge. (Ord 104, §2, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000)

13.20.120 Credits.

(A) An permittee is eligible for credit against the system development charge constructing a qualified public improvement. This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project.

(B) Applying the adopted methodology, the city may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing capital improvements or the need for further capital improvements or that would otherwise have to be constructed at city expense under the then-existing City Council policies.

(C) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.

(D) All credit requests must be in writing and filed with the city before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the City of Sisters. The amount of any credit shall be determined by the city and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the city that the contract amounts exceed prevailing market rate for a similar project, the credit shall be based upon market rates. The city shall provide the applicant with a credit on a form provided by the city. The credit shall state the actual dollar amount that may be applied against any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.

(E) Credits shall be apportioned against the property which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the

anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the city, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the city.

(F) Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought and shall not be a basis for any refund.

(G) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.

(H) Credits shall be used by the applicant within ten years of their issuance by the city. (Ord 104, §2, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000)

13.20.140 Notification/Appeal. The city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be notified in writing of any such proposed changes at least 45 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 30 days prior to the public hearing. No challenge to the system development charge methodology will be accepted after 60 days following final adoption by the City Council. (Ord 104, §2, 1978, amended by Ord 243, 1991, amended by Ord 300, 2000)

13.20.170 Annual Accounting.

(A) The city shall provide an annual accounting for system development charges showing the total amount of system development charges collected for each system along with a list of projects funded in whole or in part through system development charges.

(B) Any city resident or other interested person may challenge an expenditure of system development charge revenues. The challenge shall be in writing and shall be submitted to the city administrator. The challenge shall include the date of the expenditure, the amount and purpose of the expenditure and the basis for the challenge. The challenge must be filed within two years of the expenditure of the system development charge revenues and shall be reviewed as provided by state law. (Ord 300, 2000)

Chapter 13.30

INITIATION OF PUBLIC IMPROVEMENTS, ASSESSMENTS, ENFORCEMENT OF LIENS

Sections:

13.30.010	Initiation of Proceedings and Report from the City Engineer.
13.30.020	City Council's Action on Report.
13.30.030	Resolution and Notice of Hearing.
13.30.040	Manner of Doing Work.
13.30.050	Hearing.
13.30.100	Call for Bids.
13.30.200	Assessment Ordinance.
13.30.210	Method of Assessment and Alternative Methods of Financing.
13.30.220	Remedies.
13.30.230	Notice of Assessment.
13.30.240	Lien Records and Foreclosure Proceedings.
13.30.250	Errors in Assessment Calculations.
13.30.260	Deficit Assessment.
13.30.270	Rebates.
13.30.300	Abandonment of Proceedings.
13.30.400	Curative Provisions.
13.30.500	Reassessment.
13.30.510	Severability.

13.30.010 Initiation of Proceedings and Report from the City Engineer. Upon the petition of the owners of one-half of the property (as measured by total square feet) to benefit specially from the improvement, to make any street, sewer, sidewalk, drain, or other public improvement to be paid for in whole or in part by special assessment according to benefits, then the commission shall, by motion, direct an appropriate City employee or agent to make a survey and written report for such project and file the same with the City Recorder. Such report shall contain the following matters:

(1) A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

(2) Plans, specifications and estimates of the work to be done; provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the report may adopt the plans, specifications and estimates of such agency.

(3) An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto.

(4) An estimate of the unit cost of the improvement to the specially benefitted properties.

(5) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted.

(6) The description and assessed value of each lot, parcel of land, or portion thereof to be specially benefitted by the improvement, with the names of the record owners thereof and when readily available, the names of the contract purchasers thereof.

(7) A statement of outstanding assessments against property to be assessed.

13.30.020 City Council's Action on Report. After the report shall have been filed with the City Recorder, the City Council may thereafter by motion approve the report, modify the report and approve it as modified; require additional or different information for such improvement; or it may abandon the improvement.

13.30.030 Resolution and Notice of Hearing. After the City Council shall have approved the report as submitted or modified, the City Council shall, by resolution, declare its intention to make such improvement, provide the manner and method of carrying out the improvement, and shall direct the City Recorder to give notice of such improvement by two (2) publications one (1) week apart in a newspaper of general circulation in the City of Sisters and by mailing copies of such notice by registered or certified mail to the owners to be assessed for the costs of such improvement, and post said notice on each affected lot, parcel of land, or portion thereof to be specially benefitted by the improvement and post said notice in three (3) public places within the City, one being the U.S. Post Office in the City of Sisters, which said notice shall contain the following matters:

(1) That a written report on the improvement is on file in the office of the City Recorder and is subject to public examination.

(2) That the City Council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than ten (10) days following the last publication of notice, at which objections and remonstrances to such improvement will be heard by the City Council; and that if, prior to such hearing, there shall be presented to the City Recorder valid, written remonstrances as provided in Section 38 of the Charter of the City of Sisters, Oregon, on forms provided by the City, or substantially the same as the form provided by the City. The improvement will be abandoned for not less than six (6) months.

(3) A description of the property to be specially benefitted by the improvement, the estimate of the unit cost of the improvement to the property to be specially benefitted and the total cost of the improvement to be paid for any special assessments to benefitted properties.

13.30.040 Manner of Doing Work. The City Council may provide in the improvement resolution that the construction work may be done in whole or in part by the City of Sisters, by a contract, or by any other governmental agency, or by any combination thereof.

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

13.30.100 Call for Bids. The City Council may, in its discretion, direct the City Recorder to advertise for bids for construction of all, or any part of, the improvement project on the basis of the City Council's approved report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after said public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrances and oral objections to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids, then the City Council shall determine the time and manner of advertisement for bids, and the contracts may be let to the responsible bidder whose bid is in the best interests of the City as determined in the sole discretion of the City Council, provided that the City Council shall have the right to reject any or all bids when they are deemed unreasonable or unsatisfactory in the City Council's discretion. The City shall provide for the bonding of all contractors for the faithful performance of any contract let under its authority and the provisions thereof in case of default shall be enforced by action in the name of the City of Sisters.

If the City Council finds, upon opening bids for the work of such improvement, that the bid in the best interest of the City is substantially in excess of the estimate, it shall provide for holding a special hearing of objections to the proceeding with the improvement on the basis of such bid; and it shall direct the City Recorder to publish One (1) notice thereof in a newspaper of general circulation in the City of Sisters and by mailing copies of such notice by registered or certified mail to the owners to be assessed for the costs of such improvement and post said notice in three (3) public places within the City, one (1) being the U.S. Post Office in the City of Sisters.

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

13.30.210 Method of Assessment and Alternative Methods of Financing. The City Council, in adopting a method of assessment of the costs of the improvement, may:

(1) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived and subject to the petition requirements set forth in section one (1), and remonstrance procedures set forth in section 13.30.03 and section 38 of the City Charter.

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to specially benefitted.

(3) Authorize payment by the City of all, or any part of, the cost of any such improvement when, in the opinion of the City Council, the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only partial payment or not payment to the benefitted property of the costs of the improvement.

Nothing contained in this ordinance shall preclude the City Council from using any other available means of financing improvements, including federal or state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds or any other legal means of finance. In the event that such other means of financing improvements are used, the City Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement, subject to the remonstrance procedures set forth in section 13.30.03 and section 38 of the City Charter.

13.30.220 Remedies. Subject to the curative provisions of Section 13.30.400 and the rights of the City to re-assess as provided in Section 13.30.500 of this ordinance, proceedings for writs of review and suits in equity may be filed not later than sixty (60) days after the passage by the City Council of the ordinance spreading the assessment; providing that the property owner shall have filed a written objection to the proposed assessment as provided in Section 13.30.200 herein. A property owner who has filed a written objection with the City Recorder, as required by Section 13.30.200 herein, shall have the right to apply for a writ of review based on the grounds that the City Council, in the exercise of judicial functions, has exercised such functions erroneously or arbitrarily, or has exceeded its jurisdiction, to the injury of some substantial right of such owner, or if the facts supporting said ground have been specifically set forth in the written objection as required in Section 13.30.200 herein. A property owner who has filed a written objection with the City Recorder, as required by Section 13.30.200 herein, may commence a suit for equitable relief based on a total lack of jurisdiction on the part of the City; and if notice of the improvement shall not have been sent to the owner, and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the City Recorder within thirty (30) days after receiving notice of knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption, or so as to affect the running of any statute of limitation or equitable defense, including laches.

Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the City Council to remedy or cure the alleged errors or

defects.

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

13.30.240 Lien Records and Foreclosure Proceedings. After passage of the assessment ordinance by the City Council, the City Recorder shall enter in the docket of City liens a statement of the amounts assessed upon each particular lot, parcel of land, or portion thereof together with a description of the improvement, the name of the owners, and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land, or portions thereof which have been assessed for such improvement. All assessment liens of the City of Sisters shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the State of Oregon permit. Interest shall be charged at the rate of ten percent (10%) per annum until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance; and after expiration of sixty (60) days from the date of such assessment ordinance, the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the State of Oregon; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property.

13.30.250 Errors in Assessment Calculations. Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error in fact. If the City Recorder shall find that there has been an error in fact, he/she shall recommend to the City Council an amendment to the assessment ordinance to correct such error; and upon enactment of such amendment, the City Recorder shall make the necessary correction in the docket of City liens and send a corrected notice of assessment by registered or certified mail.

13.30.260 Deficit Assessment. In the event that an assessment shall be made before the total cost of the improvement is ascertained and if it is found that the amount of the assessment is insufficient to defray the expense of the improvement, the City Council may, by motion, declare such deficit assessment and shall direct the City Recorder to publish one (1) notice thereof in a newspaper of general circulation in the City of Sisters, notify affected property owners by registered or certified mail and post notice at three (3) public places in the City, one being the U.S. Post Office of the City

of Sisters. After such hearing, the City Council shall make a just and equitable deficit assessment by ordinance which shall be entered in the docket of City liens as provided by this ordinance; and notices of the deficit assessment shall be published and mailed, and the collection of the assessment shall be made in accordance with Section 13.30.23 and 13.30.24 herein.

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

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

13.30.400 Curative Provisions. No improvement assessment shall be rendered invalid by reason of a failure of the report to contain all of the information required by Section 13.30.01 herein; or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket, or notices required to be published and mailed; nor by the failure to list the name of, or mail notice to, the owner of any property as required by this ordinance; or by reason of any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the City Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

13.30.500 Reassessment. Whenever any assessment, deficit or reassessment for any improvement which has been made by the City has been, or shall be, set aside, annulled, declared or rendered void, or its enforcement restrained by any Court of this state, or any federal Court having jurisdiction thereof, or when the City Council shall be in doubt as to the validity of such assessment, deficit assessment or reassessment, or any part thereof, then the City Council may make a reassessment in the manner provided by the laws of the State of Oregon. (Ord. 219, 1989)

13.30.510 Severability. The provisions of this Code are severable. If any section, sentence, clause, or phrase of this section of the Code is adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Code section. (Ord 219, 1989)

Chapter 13.40

WATER SUPPLY CROSS CONNECTION POLICY

Sections:

13.40.010	Definition of a Cross-Connection.
13.40.020	Customer's Responsibility.
13.40.030	Responsibility of Certified Backflow Device
13.40.040	Backflow Prevention Device Installation.
13.40.050	Approval of Backflow Devices.
13.40.060	New Construction.
13.40.070	Cross-Connection Inspections.
13.40.080	Liability.
13.40.090	Penalties.

13.40.010 Definition of a Cross-Connection. Any physical arrangement whereby the public water supply is connected directly or indirectly with any nonpotable or unapproved water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, liquid, gases, sewage or other waste of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. (Ord 220

13.40.020 Customer's Responsibility.

(1) If a cross-connection is found in the customer's water system, he will be informed of this condition in writing and given sixty (60) days to correct the problem or install an approved backflow prevention device. If he does not comply within the sixty (60) days, his water will be subject to being discontinued. Service will not be established until satisfactory proof is furnished that the cross-connection has been completely and permanently severed, or that an approved backflow protection device has been installed. If a cross-connection is found, within the opinion of the utility, to endanger the system, the service shall be discontinued immediately and not restored until the situation is corrected.

(2) It shall be the duty of the owner of the property at any premises where backflow protection devices are installed to have them inspected and tested at least once a year or more often in those instances where successive inspections and tests indicate failure. Those inspections and tests shall, at the expense of the owner of the property, be performed by a certified backflow device tester.

13.40.030 Responsibility of Certified Backflow Device Tester. It shall be the responsibility of the backflow device tester to submit records of such test to the City.

13.40.040 Backflow Prevention Device Installation. Backflow prevention devices shall be

installed whenever the following conditions exist:

(1) On any premises where there is an auxiliary water supply which is not of safe bacteriological quality and which is connected to the customer's system, the potable water system shall be protected by an approved airgap separation or an approved reduced pressure backflow prevention device. A double-check valve assembly may be used if the auxiliary water is of proven safe bacteriological quality.

(2) On any premises where there is any material dangerous to health which is handled in such a fashion as to permit entry into the potable water system, it shall be protected by an approved airgap separation or an approved reduced pressure backflow prevention device. If on premises, protection is desirable to protect the health of those persons on the premises, a pressure vacuum breaker may be used.

(3) On any premises where a substance that would be objectionable but not hazardous to health, if introduced into the potable water system, shall be protected by an approved double-check valve assembly or an approved pressure vacuum breaker.

(4) Irrigation systems shall be protected by approved atmosphere or pressure vacuum breaker or double-check valve assemblies, except when fertilizers or other toxic substances are introduced through the irrigation system, an airgap or reduced pressure backflow prevention device shall be used.

13.40.050 Approval of Backflow Devices. All backflow prevention devices used shall be a model approved by the Oregon Department of Human Resources, State Health Division and installed in accordance with the manual of cross-connections control and the Pacific Northwest Section, the American Water Works Association Manual. All installations shall be approved by the City of Sister's Public Works Director or authorized agent appointed by the City Administrator.

13.40.060 New Construction. Where possible, a plan check should be made prior to construction to determine the degree of hazard and the class of backflow prevention device, if any, required at the point of delivery from the public potable water system to a consumer's premises. Where adequate plans and specifications are not available and no realistic evaluation of the proposed water uses can be determined, the consumer, architect, engineer or other authorized person should be advised that eventually circumstances may require the installation of maximum backflow protection at the water service connection.

13.40.070 Cross-Connection Inspections.

(1) No water shall be delivered to any structure hereafter built within the City or within areas served by City water until the structure has been inspected by the City for possible cross-connections and has been approved as being free of cross-connections.

(2) The customer's system shall be open for inspection at all reasonable times to authorized representatives of the City to determine whether cross-connections or other structural or

sanitary hazards, including violations of these regulations, exist. When such conditions become known, the Director shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with state and City laws relating to plumbing and water supplies. All inspections as stipulated in this section shall be made by and at the expense of the City.

(3) Any authorized employees of the City shall have free access at proper hours of the day to all parts of buildings or premises for the purpose of inspecting the condition of the pipes, fixtures and other appurtenances and the manner in which the water is being used.

(4) If access to the premises is refused, the City shall discontinue water service to the premises.

13.40.080 Liability. Nothing herein shall not be construed to hold the City responsible for any damage to persons or property by reason of inspection or testing or the failure to inspect or test.

13.40.090 Penalties.

(1) A person who fails to install or provide for the testing of a backflow prevention device or who violates any provision of this code, or who fails to comply with an order thereunder, shall severally for each violation and noncompliance be guilty of a code violation. The imposition of one penalty for a violation shall not excuse the violation or permit it to continue. Addition, each day the violation continues constitutes a separate violation.

(2) Any person who is in violation of Sections 13.30.020 - 13.30.070 of this Code shall be required to correct or remedy such violation or defect. The application of the above penalty shall not prevent the enforced removal of prohibited conditions; and in addition to other remedies, the City may file an action to enforce this Ordinance.

(3) Any person who is in violation of Sections 13.30.020 - 13.30.070 may have the City discontinue water services of any such person who refuses or fails to comply with the provisions of 13.30.020 - 13.30.070.

(4) Any person, firm or corporation who violates, disobeys, neglects or opposes the effect of any of the provisions of 13.30.020 - 13.30.070 shall, upon conviction thereof before the Municipal Judges, be fined not to exceed \$100 for each violation or imprisonment in jail not to exceed thirty (30) days for each violation or may be both fined and imprisoned, not to exceed the amount and time provided in this section. (Ord. 220, 1989.)

Chapter 13.50

SEWER USE PROVISIONS

Sections:

13.50.010	Definitions.
13.50.020	Use of Public Sewers Required.
13.50.030	Private Sewage Disposal
13.50.040	Hauled Wastewater.
13.50.050	Building Sewers and Connections.
13.50.060	Use of Public Sewers.
13.50.070	Infiltration and Inflow.
13.50.080	Protection from Damage.
13.50.090	Powers and Authority of Inspectors.
13.50.100	Enforcement.

13.40.010 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (2) Building Drain. 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 sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (3) Building Sewer. The extension from the building drain to the public sewer or other place of disposal.
- (4) Cooling Water. The water discharged from any use (such as air conditioning, cooling or refrigeration) to which the only pollutant added is heat.
- (5) F.O.G. Fats, Oils and Grease.
- (6) Food Preparation Facility. Any establishment where foodstuffs are prepared, mixed, cut, baked, cooked or packaged for human consumption.
- (7) Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

- (8) Industrial Waste. The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- (9) Infiltration. That water other than sewage which enters the sewer system from the surrounding soil, typically from broken pipes, or defective joints in pipe and manhole walls.
- (10) Inflow. Water from storm water runoff which directly enters the sewerage system only during or immediately after rainfall. Typical points of entry include connections with roof and area drains, storm drain connections, and holes in manhole covers in flooded streets.
- (11) Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
- (a) Inhibits or disrupts the municipal wastewater system, its treatment processes or operations, or its sludge processes, use or disposal; and
 - (b) Therefore is a cause of a violation of any requirement of the WPCF permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.
- (12) Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (13) Pass Through. A discharge which exits the treatment plant effluent into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's WPCF permit (including an increase in the magnitude or duration of a violation).
- (14) Person. Any individual, firm, company, association, society, corporation, group, or any other legal entity, including all Federal, State, or local governmental entities.
- (15) pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (16) Properly Shredded Garbage. The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (17) Public Sewer. A sewer controlled by the city to which all owners of abutting properties shall have equal rights to make connection and to use, subject to rules, regulations,

code provisions and ordinances of the city.

(18) Sanitary Sewer. A sewer which carries sewage and to which storm, surface and ground water are not intentionally admitted.

(19) Sewage. A combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm water as may be present. The term “sewage” means wastewater.

(20) Sewer. A pipe or conduit for carrying sewage.

(21) Shall is mandatory; May is permissive.

(22) Slug. Any pollutant (including BOD) released in a non-routine, episodic, or non-customary batch discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions in Section 5 of this ordinance.

(23) Storm Sewer (sometimes termed Storm Drain). A sewer designed to carry only storm waters, surface run-off, street wash waters and drainage.

(24) Superintendent. The Superintendent of Sewage Works of the City of Sisters or his authorized deputy, agent, or representative.

(25) Suspended Solids. 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.

(26) Treatment Plant. Any arrangement of devices and structures used for treating sewage.

(27) Treatment Works. All facilities for collecting, pumping, treating, and disposing of sewage. “Treatment system” shall be an equivalent term for “treatment works”.

(28) User. Any person who contributes, or causes or allows the contribution of sewage or industrial wastewater into the municipal treatment works, including persons who contribute such wastes from mobile sources.

(29) Watercourse. A channel in which a flow of water occurs, either continuously or intermittently. (Ord 319, 2001, amended by 327, 2001.)

13.50.020 Use of Public Sewers Required.

(1) It shall be 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 objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the city or in any area under

the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

(3) Except as provided in Section 3, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal and treatment of sewage.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the city, is required at his/her expense to install suitable toilet facilities. Connection shall be made directly with the proper public sewer in accordance with the provisions of this ordinance within ninety (90) days after date of official notice to do so, provided that said public sewer is within one thousand, (1,000) feet of the property line.

(5) The City Council, in its sole discretion may allow a property owner to defer the connection requirement under the following circumstances. A property owner may apply to the City to defer the connection requirement for a period of time not to exceed 24 months under the following conditions:

(a) The property owner signs and permits to be recorded against the subject property a sewer connection agreement in a form acceptable to the City.

(b) The property is subject to one of more of the following:

(i) Owner intends to redevelop the property within 24 months and the required extension and connection would be inconsistent with the anticipated redevelopment; or

(ii) The property would require no more than on EDU and the anticipated cost to extend the sewer line and/or lateral is greater than 4 times the current sewer SDC; or

(iii) The current use of the property serves an identifiable public purpose and that requiring immediate connection to the sewer system would result in the termination of the operations on the property and resulting loss to the public; or

(iv) There is a current valid DEQ septic permit (other than a temporary or conditional permit) and the owner has installed or rebuilt the septic system within the prior 24 months.(Ord 319, 2001, amended by Ord 327, 2001; amended by Ord. 349, 2004)

13.50.030 Private Sewage Disposal.

(1) Where a public sanitary sewer is not available under the provisions of Section 2, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the Oregon Department of Environmental Quality (DEQ) or its authorized agent.

(3) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 2, a direct connection shall be made to the public sewer, and any septic tanks, cesspools, and similar private sewage disposal facility shall be abandoned in accordance with State law at no expense to the city.

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

(5) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by DEQ. (Ord 319, 2001, amended by 327, 2001.)

13.50.040 Hauled Wastewater. Septic tank waste (septage) shall not be received into the municipal treatment works or collection system.-(Ord 319, 2001, amended by 327, 2001.)

13.50.050 Building Sewers and Connections.

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

(2) There shall be two (2) classes of building sewer permits: (a) for residential and commercial services, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agency shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Superintendent. A permit and inspection fee (which will be set by resolution) shall be paid to the city at the time the application is filed.

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

(4) A separate and independent building sewer shall be provided for every building. However, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building. Separate services shall be required for land partitioned into separate tax lots.

(5) Existing building sewers should normally be replaced. Alternatively, a cleanout may be installed near the building foundation and the building sewer may be tested. Old building sewers may be used in connection with new buildings or new building sewers only when they are found, on examination and testing by the Engineer, to meet all requirements of this ordinance.

(6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and/or the Water Pollution Control Federation (WPCF), Manual of Practice No. 9, shall apply.

(7) The building sewer shall be brought to the building at an elevation below the basement floor whenever possible. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

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

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

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

(12) The City will be responsible for all public sewers (mainlines) throughout the City. All property owners will be responsible for the sewer service laterals from the public sewer (mainline) to the building. (Ord 319, 2001, amended by 327, 2001.)

13.50.060 Use of the Public Sewers.

(1) Prohibited Discharges

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general prohibitions apply to all users of the municipal treatment system whether or not the user is subject to categorical pretreatment standards or any other National, State or local pretreatment standards or requirements. Furthermore, no user may contribute the following substances to the system.

- (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the municipal treatment system. Included in this prohibition are waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods prescribed in 40 CFR 261.21.
- (b) Solid or viscous substances in amounts which will cause interference with the flow in a sewer but in no case solids greater than one half inch (½") (1.27 centimeters) in any dimension.
- (c) Any fat, oils or greases, including but not limited to petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (d) Any wastewater having pH less than 5.5 or more than 10.0, or which may otherwise cause corrosive structural damage to the system, city personnel or equipment.
- (e) Any wastewater containing pollutants in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the municipal treatment system, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.
- (f) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair. This includes dissolved hydrogen sulfide concentrations exceeding 0.1 mg/l.
- (g) Any substance which may cause the treatment plant effluent or any other residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the system cause the City to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Clean Water Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal being used by the City.
- (h) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity be more than 10 percent from the seasonably established norm for aquatic life.

- (i) Any wastewater having a temperature greater than 150°F(55°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).
- (j) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the Superintendent in compliance with applicable State or Federal regulations.
- (k) Any pollutants which result in the presence of toxic gases, vapor or fumes within the system in a quantity that may cause worker health and safety problems.
- (l) Any trucked or hauled pollutants.
- (m) Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the Superintendent. (NOTE: Certain of these waters may require an NPDES permit from DEQ if discharged to a storm sewer or natural outlet.)
- (n) Any sludge, screenings, or other residues from the pretreatment of industrial wastes.
- (o) Any medical wastes, except as specifically authorized by the Superintendent in a wastewater permit.
- (p) Any material containing ammonia, ammonia salts, or other chelating agents which ill produce metallic complexes that interfere with the municipal treatment system.
- (q) Any wastewater causing the treatment plant effluent to demonstrate toxicity to test species during a bio-monitoring evaluation.
- (r) Recognizable portions of the human or animal anatomy.
- (s) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal treatment system.

Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the municipal treatment system.

(2) Federal Categorical Pretreatment Standards Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter I, Subchapter N, Parts 405-471 and incorporated herein.

(3) State Requirements Users are required to comply with applicable State pretreatment standards and requirements set out in OAR Chapter 340. These standards and requirements are

incorporated herein.

(4) Specific Pollutant Limitations No nonresidential user shall discharge wastewater containing restricted substances into the municipal treatment system in excess of limitations specified in its Wastewater Discharge Permit or published by the Superintendent. The Superintendent may publish and revise from time to time standards for specific restricted substances. At his discretion, the superintendent may impose mass limitations in addition to or in place of the concentration based limitations referenced above.

(5) If any wastewater is discharged or is proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above and which in the judgement of the Superintendent may have a deleterious effect upon the treatment works, processes, equipment, or receiving waters, or which may otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (a) Reject the wastes,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge, and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer charges.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

(6) Where preliminary treatment or flow-equalizing facilities are provided for any wastewater, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

(7) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients. However, such interceptors shall not be required for private residences. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located so as to be readily and easily accessible for cleaning and inspection.

(a) Maintenance.

A food particle trap shall precede installation of grease trap in food preparation facilities. Food particle traps are designed to catch food and any other putrescible solids from entering the grease trap. Food particle traps shall be emptied not less than daily or on an 'as needed' basis to prevent the backup of the wastewater entering the grease trap.

For grease traps this shall require not less than bi-monthly cleaning of the grease trap or as required to prevent flow-through of grease into the sewage collection system. Grease trap lid shall be removed and the accumulated grease and fats shall be strained/scooped from the grease trap and disposed of with the solid waste (garbage) or other approved grease recycle method.

The City of Sisters, or its agents shall conduct random Grease Trap Inspections. Inspections are designed to prevent the flow-through of F.O.G. into the sewage collection system. Inspections shall be conducted on a quarterly basis (or as needed based on history of the establishment) and will be unannounced and performed randomly. Inspector shall be granted access to the grease trap location immediately upon arrival. Failure to grant immediate access to the grease trap shall be punishable by a fine of not less than \$300 per day until the inspector is granted access.

(b) Inspection Process for Grease Traps.

Inspector will verify all the following:

The food particle trap is in place and in use and is being cleaned regularly,

The snorkel for the grease trap is installed, maintained and functioning properly,

The lid of the grease trap is easily accessible and easily removable and that no equipment has been installed or placed over or around the grease trap that would, in the opinion of the agent, hinder the easy access to maintain the grease trap,

The accumulated F.O.G. in the trap does not exceed 33% of the freeboard depth of the middle compartment of the grease trap (as measured using a measuring stick).

The facility has a written grease trap maintenance policy that states how often the trap is cleaned, and that the accumulated F.O.G. in the trap is disposed of in the garbage or other approved grease and oil recycling chamber.

(c) Grease Inceptors.

Grease Inceptors are required to be pumped not less than quarterly or as needed to prevent flow-through of F.O.G. If a random inspection shows an accumulation of more than 33% of the freeboard volume the following penalties shall apply.

Failure to meet any one of the above minimum maintenance standards shall result in a fine of not less than \$250.00, PLUS the cost of labor and materials required to correct the problem. Labor shall be calculated to the nearest half hour.

(8) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with 40 CFR Part 136 or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the Environmental Protection Agency (EPA), DEQ and the city. Except as indicated below, wastewater samples collected for purposes of determining compliance with standards and requirements of this ordinance must be obtained using flow proportional composite collection techniques. In the event that flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional or grab sampling. Samples for fats, oil and grease (FOG), temperature, pH, cyanide,

phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(9) No statement contained in 13.50.060 shall be construed to prohibit an agreement between the city and any person whereby a discharge of unusual strength or character may be accepted by the city for treatment. Such an agreement may be made when, in the opinion of the Superintendent, special circumstances justify such agreement, provided that no interference or pass through result from the discharge and no additional costs are incurred by the city without recompense by the person. Federal and State pretreatment standards and requirements shall not be waived by any special agreement of the parties. (Ord 319, 2001, amended by 327, 2001.)

13.50.070 Infiltration and Inflow.

(1) All property owners identified by the City as contributors to excessive or improper infiltration or inflow into the treatment works shall be advised of their infiltration and inflow problems.

(2) All such situation properties shall be provided a 60-day grace period in which to correct the infiltration and inflow problems as identified, said 60-day grace period to extend from] the date of notification.

(3) By the end of the 60-day grace period, each property owner shall notify the City that corrective actions have been taken or are in progress, which actions shall be specified in the notification to the City.

(4) A property owner failing to notify the City of corrective actions prior to the end of the 60-day grace period shall be subject to termination of service, without further notice, and water service, if provided by the city, shall be immediately discontinued and shut off until the violation shall has been corrected in accordance with Federal, State and City regulations.

(5) In the event any instance of excessive or improper infiltration or inflow into the treatment works of the City shall continue beyond the 60-day grace period, it is hereby declared that such continuing infiltration or inflow is a public nuisance, that the City shall have the right to abate such public nuisance, and to enter upon any private property within the City for such purpose and shall assess the cost of such abatement as a lien against the property upon which such continuing infiltration and inflow occurs and shall assess the cost of such abatement to the property upon or from which infiltration and inflow occurs. Such assessment shall be levied by the filing of a statement of such costs together with the description of the property or properties to be assessed, together with the names of the owner(s) thereof with the City Recorder, whereupon the City Recorder shall forthwith enter such assessment as a lien against such property in the City Lien Docket of the City. An administration fee of 100% of the cost, whichever is greater, shall be charged and collected by the City in addition to all costs of abatement. (Ord 319, 2001, amended by 327, 2001.)

13.50.080 Protection from Damage. No unauthorized person shall maliciously, willfully,

or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord 319, 2001, amended by 327, 2001.)

13.50.090 Powers and Authority of Inspectors.

(1) The city shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Industrial users shall allow the Superintendent or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of additional duties.

- (a) Where a user has security measures in force which require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, and US EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (b) The City, State, and US EPA shall have the right to set up or require installation of, on the industrial user's property, such devices as are necessary to conduct sampling, and/or metering of the user's operations.
- (c) The city may require the industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at the industrial user's expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such assess shall be borne by the industrial user.
- (e) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this Ordinance. (Ord 319, 2001, amended by 327, 2001.)

13.50.100 Enforcement.

(1) Any person found to be in violation of this ordinance, or any permit or condition issued pursuant to this ordinance, shall be served by the city with written notice stating the nature

of the violation. This notification may contain additional requirements or conditions, including schedules of compliance, determined to be necessary by the city to correct the violation(s). This notice shall be in addition to, and in no way limit, any additional enforcement actions which the city deems necessary.

(2) The city may suspend the wastewater treatment service and/or a wastewater permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Interference to the POTW or causes the city to violate any condition of its WPCF permit. Any person notified of a suspension of the wastewater treatment service and/or the Wastewater permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater treatment service upon proof of the elimination of the non-complying discharge.

(3) If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this ordinance, Federal or State Pretreatment Requirements, or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief in a Court of competent jurisdiction.

(4) Any person who is found to have violated any provision of this ordinance, its wastewater discharge permit, or an order of the city shall be liable to the city for a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each day of each violation, except fines shall be as stated in Section 6.7 a, b, c. In addition to the penalties provided herein, the city may recover reasonable attorneys' fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this ordinance or the orders, rules, regulations and permits issued hereunder. (Ord 319, 2001, amended by 327, 2001.)

Chapter 13.60

SEWER USE CHARGES

Sections:

- 13.60.010 Definitions.
- 13.60.020 Use of Public Sewers Required.
- 13.60.030 Private Sewage Disposal
- 13.60.040 Hauled Wastewater.
- 13.60.050 Building Sewers and Connections.
- 13.60.060 Use of Public Sewers.
- 13.60.070 Infiltration and Inflow.
- 13.60.080 Protection from Damage.
- 13.60.090 Powers and Authority of Inspectors.
- 13.60.100 Enforcement.

13.60.010 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) BOD Biochemical Oxygen Demand, the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.
- (2) Collection System: The system of public sewers to be operated by the City designed for the collection of sanitary sewage.
- (3) Commercial User: Any premises used for commercial or business purposes which are not an industry as defined in this ordinance.
- (4) Domestic waste: Any wastewater emanating from dwellings.
- (5) EDU: Equivalent Dwelling Unit, a volume of wastewater which incurs the same costs for operations and maintenance as the average volume of domestic waste discharged from an average residential dwelling unit in the treatment works service area. For purposes of making this determination the City shall utilize the metered water use records of the City of Sisters. Where a user believes his wastewater discharge to the treatment works is substantially different than his water consumption, an appropriate adjustment shall be made providing the user demonstrates to the satisfaction of the city the actual wastewater discharge. The volume attributed to an EDU where the BOD, suspended solids (SS) or other characteristics of the wastewater discharged by a user is significantly greater than a domestic waste shall be adjusted to account for the difference in the costs of treatment.

- (6) Industrial User: Any non-governmental, non-residential user of the public treatment works which is identified in the Standard Industrial Classification (SIC) Manual, 1972, U. S. Office of Management and Budget, as amended and supplemented, under the following divisions:

A - Agriculture, Forestry, and Fishing

B - Mining

D - Manufacturing

E - Transportation, Communications, Electric, Gas, and Sanitary Services

I – Services

A user in these Divisions may be excluded from the industrial category if it is determined that primarily domestic waste and waste from sanitary conveniences will be produced.

- (7) Industrial Waste: That portion of the wastewater emanating from an industrial user which is not domestic waste or waste from sanitary conveniences.

- (8) Operation and Maintenance Activities required to ensure the dependable and economical function of collection and treatment, that is:

Operation: control of the unit processes and equipment that make up the collection and treatment works, including financial and personnel management record keeping, laboratory control, process control, safety and emergency preparedness and planning, use of attorneys and consultants, payment of court costs, and payment of any costs or fees reasonably associated with any of the above.

- (9) Maintenance: preservation of functional integrity and efficiency of equipment and structures, including preventive maintenance, corrective maintenance, and replacement of equipment.

- (10) Person: Any individual, firm, company, association, society, corporation, or group.

- (11) Public treatment works: Treatment works owned and operated by a public authority.

- (12) Replacement: Obtaining and installing equipment accessories or appurtenances that are necessary during the design or useful life, whichever is longer, of the collection and treatment works to maintain the capacity and performance for which such works were designed and constructed.

- (13) Residential user: Any contributor to the sewage treatment system whose lot, parcel, real estate, or structure is used for domestic dwelling purposes only.

- (14) Service area: The area served by the treatment works for which there is one uniformly applied user charge system.
- (15) Sewage: A combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present. The term “sewage” is equivalent to “wastewater”.
- (16) Sewage Treatment Plant: An arrangement of devices, equipment and structures used for treating sewage.
- (17) Suspended Solids: (SS, or TSS for total suspended solids) solids that either float on the surface of or are suspended in water, sewage, or other liquids and which are removable by laboratory filtering.
- (18) Treatment Works: All facilities for collecting, pumping, treating, and disposing of sewage. “Treatment system” and “sewerage system” are equivalent terms for treatment works.
- (19) Useful Life: The period during which a treatment works is operational.
- (20) User Charge: The monthly charges levied on all users of the public treatment works which, at a minimum, cover each user’s proportionate share of the cost of operation and maintenance (including replacement) of such works as provided under Section 204(b)(1)(A) of the federal Clean Water Act and (OAR) 340-054-0035.

13.60.020 Sewer User Charges.

- (1) User charges shall be levied on all users of the public treatment works. Such charges shall cover the cost of operation, maintenance including replacement, and administrative costs of the treatment works. User charges may also be levied to cover the retirement of debt incurred for financing system improvements. The user charge system shall distribute these costs in proportion to each user’s contribution to the wastewater loading of the treatment works.
- (2). There shall be assigned to each user an appropriate number of Equivalent Residential Units (EDUs). This number represents a standard measurement of the average wastewater characteristics of wastes from a single family residence.
- (3) The user charge shall be calculated by multiplying the total number of EDUs for each user by a constant cost factor. This cost factor shall be set by resolution.
- (4) Should any user believe that he has been incorrectly assigned a number of EDUs, that user may apply for review of his user charge as provided in 13.60.060 of this

Ordinance.

- (5) If it has been determined by the City that a user's wastewater contribution is incorrectly assigned, the City shall reassign a more appropriate value to that user and shall notify that user of such reassignment.
- (6) Records of all assigned wastewater contributions forming the basis of the charges shall be kept on file with the City and shall be open for public inspection.
- (7) The sewer user charge for all occupied property shall begin 30 days after the sewer service becomes available or the day that connection is made to the public sewer, whichever occurs first. The sewer user charge for all unoccupied property shall begin within 30 days after the property is ready for occupancy or on the first day of occupancy, whichever occurs first. All unoccupied property which is ready for occupancy at the time the sewer service becomes available shall be treated as occupied property. Once the sewer user charge has commenced, no credit shall be given for vacancy unless it can be demonstrated that water service to that property from any and all sources has been discontinued, at which time the user charge shall be reduced to no less than \$39,00 per billing period, and the regular user charge shall be reinstated as soon as water service to that property from any source has begun. If the dates upon which the user charge is commenced or altered does not fall on the first day of a billing period, the rates shall be appropriately pro-rated.

13.60.030 Review and Revision of Rates.

- (1) The sewer user charges established in 13.60.020 of this Ordinance shall, at a minimum, be reviewed biennially and revised periodically to reflect actual costs of operation, maintenance, replacement, (and debt service, as applicable) for the treatment works and to maintain the equitability of the user charges with respect to proportional distribution of operation and maintenance costs relative to each user's contribution to the total wastewater loading of the treatment works.
- (2) Each user shall be notified on not less than an annual basis, in conjunction with a regular billing, of that portion of the user charge revenues which are attributable to the operation, maintenance, and replacement of the wastewater collection and treatment system.

13.60.040 Responsibility for Payment, Delinquencies, and Penalties.

- (1) The owner of record of the premises served by the sewerage system shall be responsible for payment of the sewer user charge, notwithstanding the fact that the property may be occupied by a person or parties other than the owner.
- (2) The users of the sewerage system shall be billed on a monthly basis for services in accordance with the rate schedule as set forth by resolution as described under

13.60.020 of this Ordinance.

- (3) The date of billing shall be the first day of the month following hookup.
- (4) Sewer user charges shall be due and payable to the City no later than 10 days after the date of billing.
- (5) Interest at the rate of 1% per month shall accrue on all delinquent accounts calculated from the date of delinquency.
- (6) Failure to pay delinquent user charges and associated penalties shall result in the City action to remove or close sewer connections and gain access to the property for accomplishing such action. The expense of discontinuation of service through removal or closing, as well as the expense of restoring service, shall be a debt due to the City. Remedies for recovery of amounts owed may be made through civil action in the name of the City against the property occupant, property owner, or both. In addition to other provisions set forth in this section, the City may turn off the water supply of any person who fails to pay city utilities as billed, System Development Charges, sewer hookup fees as required or who fails to comply with this ordinance and the rules and regulations adopted therein. When the payment is made or the violation corrected, the water may be turned on upon payment of the required charges and in accordance with the rules and regulations governing the water system.
- (7) Sewer service shall not be restored until all charges, including interest accrued and penalties, disconnection and reconnection charges, have been paid.
- (8) Change in ownership or occupancy of premises subject to delinquent accounts shall not be grounds for reducing or forgiving any amounts owed.

13.60.050 Management of User Charge Revenues.

- (1) Billings for sewer user charges shall be mailed to the address specified in the application for permit to make connection, or until a different owner or occupant of the property is reported to the City.
- (2) All collections of sewer user charges shall be by the Administrative/Finance Officer. Sewer user charges shall be computed as provided in the resolution described in 13.60.020 of this Ordinance and shall be payable as provided under 13.60.040 of this Ordinance.
- (3) The Administrative/Finance Officer hereby directed to deposit in the Sewer Fund all of the gross revenues received from charges, interest and penalties collected for the use of the sewerage system as herein provided.

- (4) The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance, and repair of the treatment works; establishment and maintenance of a replacement reserve or set-aside account; administration and billing costs; expenses associated with collection of delinquent accounts; and payments of the principal and interest on any debts incurred by the sewerage system in the form of outstanding bonds or loan agreements. Interest earned on funds deposited shall be reinvested in the Sewer Fund and used for the purposes herein described.

13.60.060 Appeals. Appeal of the rate established by resolution as described under 13.60.020 of this Ordinance shall be made in writing to the City Administrator within 10 days of the billing date. The City Administrator shall respond in writing within 30 days of receipt of the appeal. Appeal of the City Administrator decision may be made through presentation to the City Council at a regularly scheduled session. The decision made by the City Council shall be final.

13.60.070 Validity and Severability.

- (1) All ordinances or parts of ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed.
- (2) If any section, sentence, clause, phrase or other portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Chapter 13.70

REIMBURSEMENT DISTRICTS

Sections:

13.70.010	Definitions.
13.70.020	Application for a Reimbursement District.
13.70.030	Engineer's Report
13.70.040	Amount to be Reimbursed.
13.70.050	Public Hearing.
13.70.060	Notice of Public Hearing.
13.70.070	City Council Action.
13.70.080	Notice of Adoption of Resolution.
13.70.090	Recording the Resolution.
13.70.100	Contesting the Reimbursement District.
13.70.110	Obligation to Pay Reimbursement Fee
13.70.120	Public Improvements
13.70.130	Multiple Public Improvements
13.70.140	Collection and Payment; Other Fees and Charges

13.70.010 Definitions.

- (1) Applicant. A person who is required to pay for or install (or chooses to finance) some or all of a public improvement which is available to serve real property (other than real property owned by the person) and who applies to the City for reimbursement for the expense of the improvement. An applicant can be the City.
- (2) City. The City of Sisters.
- (3) City Engineer. The person holding the designation as City Engineer or any officer, employee, or agent designated by the City Administrator to perform the duties of the City Engineer.
- (4) Front Footage. The linear footage of a lot or parcel owned by a property owner to be served by a public improvement. Front footage excludes the front footage of property used as public right-of-way.
- (5) Person. A natural person, a partnership, corporation, association or any other legal entity, capable of owning, holding and/or disposing of real or personal property.
- (6) Public Improvement. The construction, reconstruction and/or upgrading of facilities covered by the terms of "street improvement," "sewer improvement" and/or "water improvement" as defined herein.

- (7) Reimbursement Agreement. The agreement between an applicant and the City providing for the construction, reconstruction and upgrading of and payment for public improvements to be financed through a reimbursement district.
- (8) Reimbursement District. The area determined by the Sisters City Council to derive benefits from the construction of street, water and/or sewer improvements, financed in whole or in part by an applicant, including property having the potential to utilize the affected improvement(s).
- (9) Reimbursement Fee. That sum determined by a resolution of the Sisters City Council and the reimbursement agreement to be the amount of money proportionate to the benefit derived by the affected property from the public improvement.
- (10) Sewer Improvement. A sewer or sewer line improvement conforming with the City of Sisters' adopted standards and specifications, and any applicable land use conditions of approval including, but not limited to, extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.
- (11) Street Improvement. A street or street improvement conforming with the City of Sisters' adopted standards and specifications, and any applicable land use conditions of approval including, but not limited to, streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights, signs and public right-of-way.
- (12) Water Improvement. A water or water line improvement conforming with the City of Sisters' adopted standards and specifications, and any applicable land use conditions of approval including, but not limited to, extending a water line to real property other than property owned by the applicant so that water service can be provided for such other property without extension of the line.
- (13) Utilize. To receive the benefit of a public improvement, manifested by either the receipt of a permit which will allow the use of an affected public improvement or a requirement that the property utilize the public improvement, or increase in the use of the public improvement. (Ord 337, 2003.)

13.70.020 Application for a Reimbursement District.

- (1) Any person who constructs public improvement(s) capable of providing service(s) to property may by written application filed with the City, request that the City establish a reimbursement district. The application shall be accompanied by a fee sufficient to cover the cost of administrative review and the notice required by this Section.
- (2) The application for creation of a reimbursement district shall include the following:

- (a) A description of the location, type, size and cost of the public improvement sought to be eligible;
 - (b) A map showing the properties to be included within the proposed reimbursement district which includes information on the ownership of each property; the zoning thereof; the front and/or square footage of the property; and any other data (traffic studies, water modeling, etc.) necessary for or relevant to calculating the apportionment of the cost of the affected public improvement(s).
 - (c) Information on the cost of the public improvement(s). In the event the affected public improvement(s) have been built or installed, this information must reflect the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. In the event the public improvements have not been constructed or installed, the information must reflect the estimated cost of the improvements as evidenced by bids, projections as to the cost of labor and materials and other similar information requested by the City Engineer.
 - (d) The date the City either accepted the public improvements or estimated date of completion.
- (3) An application may be submitted to the City prior to the construction or installation of the attached public improvement but in any event must be submitted not later than 120 days after completion and acceptance by the City of the public improvements. However, the City Engineer may waive this time limitation upon a showing by the applicant of good cause for the delay. (Ord 337, 2003.)

13.70.030 Engineer's Report. The City Engineer shall review the application and evaluate whether a Reimbursement District should be established. The City Engineer may require the submittal of other relevant information from the applicant in order to assist the City Engineer in the evaluation. The City Engineer shall after evaluation, prepare a written report for the City Council, considering and making a recommendation as to the efficacy of establishing a reimbursement district. The report shall include information on the following items:

- (1) Whether the applicant will finance or has constructed some or all of the public improvement(s) and whether those improvements are available to serve property other than property owned by the applicant;
- (2) The area to be included within the reimbursement district;
- (3) The actual or estimated cost of the public improvement(s);
- (4) A methodology for spreading the cost associated with the public improvement(s) between and among the affected parcels. The methodology should take into consideration the cost of the improvement(s), the value of the unused capacity, any agreements on cost spreading methodology reached by a majority of the property

owners within the proposed district, and such other factors as may be deemed relevant by the City Engineer;

- (5) The amount, if any, to be charged by the City for its administration of the agreement;
- (6) The period of time that the right to reimbursement exists; and
- (7) Whether the public improvement(s) will or have met City standards. (Ord 337, 2003.)

13.70.040 Amount to be Reimbursed.

The cost to be reimbursed to the applicant is limited to the cost of construction, including property acquisition costs, the cost of construction permits, engineering and legal expenses related directly to the formation of the reimbursement district, as determined by the City Council in its sole discretion. (Ord 337, 2003.)

13.70.050 Public Hearing.

- (1) Within a reasonable time after the City Engineer has completed the report described in Section 3, the City Council shall hold a public hearing at which any person who is or may be monetarily affected by the formation of the reimbursement district is given the opportunity to comment on the formation of the proposed reimbursement district. The formation of the reimbursement district is not subject to termination because of remonstrances, and the City Council has the sole authority and discretion to decide whether a reimbursement district shall be formed.
- (2) If a reimbursement district is formed prior to the actual construction of and/or acceptance by the City of the improvement(s), the City Council may set a not-to-exceed reimbursable amount which may or may not reflect the applicant's actual costs. A second public hearing shall be held after the improvement(s) have been accepted by the City. At that time, the City Council may modify the resolution described in Section 7 to reflect the actual cost of the improvement(s) (Ord 337, 2003.)

13.70.060 Notice of Public Hearing.

Not less than ten (10) nor more than thirty (30) days prior to any public hearing held pursuant to this Section, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than thirteen (13) days prior to the hearing, which notice is deemed effective on the date the notice is mailed. Failure of the applicant or any affected property owner to receive notice shall not invalidate or otherwise affect the authority of the City Council to act. (Ord 337, 2003.)

13.70.070 City Council Action.

- (1) After the public hearing held pursuant to Section 5, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified, and shall specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving City permits applicable to development of that parcel as provided for in Section 11.
- (2) When the applicant is other than the City, the resolution shall authorize the City Engineer to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement, at a minimum, shall contain the following provisions:
 - (a) That the public improvement(s) shall meet all applicable City standards;
 - (b) The amount of potential reimbursement to the applicant;
 - (c) That the total amount of potential reimbursement shall not exceed the actual cost of the public improvement(s);
 - (d) That the applicant shall guarantee the public improvement(s) for a minimum period of twelve (12) months after the date of written acceptance by the City;
 - (e) That the City will make reasonable efforts to properly account for and collect the reimbursement fee from any affected property, including the City's costs or expenses related to collection of the reimbursement fee, but is not liable for any failure to collect such fee or costs.
 - (f) If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the City.
- (3) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district. (Ord 337, 2003.)

13.70.080 Notice of Adoption of Resolution. The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution, by notice mailed to them. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount thereof. (Ord 337, 2003.)

13.70.090 Recording the Resolution. The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Clerk so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien.

Failure to make such recording shall not affect either the lawfulness of the resolution nor the obligation to pay the reimbursement fee. (Ord 337, 2003.)

13.70.100 Contesting the Reimbursement District. Any legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed within sixty (60) days following the adoption of a resolution establishing a reimbursement district, and shall be by Writ of Review as provided in ORS 34.010 to ORS 34.100. (Ord 337, 2003.)

13.70.110 Obligation to Pay Reimbursement Fee.

- (1) The applicant for a permit related to property within any reimbursement district shall pay to the City, in addition to any other applicable fees and charges, the reimbursement fee established by the City Council if within the time specified in the resolution, the person applies for and receives approval for any of the following activities:
 - (a) A building permit which will cause either the use of a public improvement or an increase in the use thereof;
 - (b) The connection to a public improvement which results in the use of a public improvement, or an increase in the use thereof.
 - (c) Any City approval or development activity which results in utilization of a public improvement as defined in Section 1.
- (2) The City determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee shall incur liability of any nature whatsoever as a result of this determination.
- (3) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvement(s), regardless of whether access is taken or provided directly onto such street. Nothing in this Section is intended to modify or limit the authority of the City to provide or require access management.
- (4) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for other improvement(s). No permit shall be issued for any of the activities listed in Subsection 11(1) unless the reimbursement fee, together with the annual fee adjustment, has been paid in full. In the case of multiple improvements, a reimbursement fee may be collected for selected improvements which the new development actually utilizes.
- (5) The date when the right of reimbursement ends shall be as follows;

- (a) For sewer and water improvements, ten years from the district formation date. Upon application for an extension, the City Council may, by resolution, authorize up to two consecutive five year extensions for a total reimbursement period not to exceed twenty years. A decision as to whether to grant any extension shall be the sole discretion of the City Council.
- (b) For street improvements, ten years from the district formation date. The reimbursement fee shall be calculated over the ten year reimbursement period based on the City Engineer's determination of the useful life of the street improvement and shall decline five percent (5%) per year to a value not exceeding 50% of the original fee in the tenth and final year of the reimbursement agreement. The reimbursement fee shall be calculated to decline beginning at six months and five percent (5%) every year thereafter. No extensions may be applied for or authorized in the case of street improvements.

Any property owner may prepay the established reimbursement fee prior to applying for a building permit or connecting to the affected public improvement. (Ord 337, 2003.)

13.70.120 Public Improvements. Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the City, or other appropriate public entity as directed by the City. (Ord 337, 2003.)

13.70.130 Multiple Public Improvements. During the initial formation of a reimbursement district, more than one public improvement may be considered for inclusion in the reimbursement district. (Ord 337, 2003.)

13.70.140 Collection and Payment; Other Fees and Charges.

- (1) Applicants shall receive all reimbursement collected by the City for their public improvements. Such reimbursement shall be delivered to the applicant for as long as the reimbursement district agreement is in effect. Such payments shall be made by the City within ninety (90) days of receipt of the reimbursements.
- (2) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City. (Ord 337, 2003.)