

Chapter 12.01 UTILITY SERVICES RULES AND REGULATIONS.

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City shall mean the City of Tigard

City Manager shall mean the City Manager of the City of Tigard or the City Manager's designee (Title 2, Section 2.04)

Clean Water Services is the special district with managing authority for the Sanitary Sewer and Surface Water Management systems within the City of Tigard boundary.

Customer means the person in whose name service is rendered, as evidenced by a request for service, receipt of service, signature on an application for service or by receipt and payment of bills for service.

Equivalent Service Unit (ESU) is a unit of measure of impervious surface. One ESU is equal to the estimated amount of

impervious surface that would contribute the same amount of runoff to the city's storm and surface water drainage system as the impervious surface on an average single family residential user. One (1) ESU equals 2,640 square feet of impervious surface area or any portion thereof.

Intergovernmental Water Board (IWB) is a representative board of five (5) members and was established through intergovernmental agreement between the City of Tigard with the City of Durham, and City of King City, and the Tigard Water District. Each jurisdiction is represented by a member and one member is appointed at large. The purpose of the IWB is to make recommendations to the Tigard City Council on water related issues and to carry out other responsibilities set forth in the agreement.

Managing Authority shall mean the entity assigned authority to manage, set fees and charges, and adopt and enforce policy and procedures.

Person means any individual, group or legal entity.

Responsible Party means the person responsible for curing or remedying a violation, and includes the owner of property, or the owner's manager or agent or other person in control of the property on behalf of the owner; person(s) occupying the property, including lessee, tenant or other person having possession; person(s) alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed or

transported eroded soil, tampered, or enacted the violation.

Surface Water Management System means all natural and man-made facilities utilized by the Surface Water Utility to regulate the quantity and quality of surface water, including drainage easements, culverts, storm drains, catch basins, stream corridors, rivers, ponds, wetlands and impoundments.

Tigard Water Service Area (TWSA) shall mean the territory within the boundaries of City of Durham, City of King City, Tigard Water District and the portion of the City of Tigard not served by Tualatin Valley Water District (TVWD).

Water Unit is a measure of one hundred (100) cubic feet of volume of water, often referred to as 100 CCF and equals 748 gallons of water use.

Utility means sewer, water and surface water management services provided by the City of Tigard.

Utility Rate means the combined water, sewer and surface water management service rates imposed pursuant to this section.

12.01.020 City Authority.

The sewer and surface water management utility systems, and other services within the City limits including all connections and contributions to the utility systems, are under the exclusive control of the City. The City also is the managing authority to provide water service to the Tigard Water Service Area by adoption of intergovernmental cooperative agreement

with other municipal corporations and special districts. The City collects fees and charges associated with water service to the Tigard Water Service Area and fees and charges associated with City services and sewer for portions of the city which are provided water service by Tualatin Valley Water District (TVWD).

All City provisions, rules, regulations, standards, fees, and charges regarding water utility services provided by the City as managing authority shall apply to the Tigard Water Service Area. The City Manager or designee shall have the authority to establish written policies to inform and enforce provisions, rules, regulations, standards, fees, and charges as adopted by City Council.

12.01.030 Power To Grant Variances.

The City Council authorizes the power to grant variances related to utility services as follows:

1. The City Manager or designee shall have the power to waive water utility fees and charges up to an amount adopted by resolution by the City Council and Intergovernmental Water Board.
2. The City Manager or designee is authorized to make leak adjustment credit or waiver of fee determinations based on City policy and all decisions are considered final. (Ord. 02-29, Ord. 96-02, TMC 12.03)
3. The Intergovernmental Water Board may grant variances from the water system rules and regulations enacted by the City of Tigard when it finds that: 1)

strict application of the rules and regulations create undue economic hardship for the applicant with no significant benefit to the water system; 2) the variance requested has no material adverse effect upon the water system and it is consistent with established policies of the Tigard City Council.

4. The Intergovernmental Water Board may not grant variances relating to annexation of property, fire protection requirements, cross-connection requirements, fees, rates and charges. (Ord. 93-34)

12.01.040 Amendments.

The City may at any time amend, change or modify any rule, rate or charge, or make any special rule, rate or contract, and all water service is subject to such power. (Ord. 93-34)

12.01.050 Agreements with Other Utility Service Providers.

The City may provide utility service to or receive utility service from any other utility services providers pursuant to agreement authorized by the City Council. Such agreements may include, but are not limited to:

1. Sale or purchase of surplus water to or from any other municipal corporation, special district or utility company.
2. Sale or purchase of treatment services to or from any other municipal corporation, special district or utility company.

3. Provision of utility services within the City limits by any other municipal corporation, special district or utility company.

12.01.060 Public Works Utilities Fees and Charges Schedule.

1. Public Works Utility fees and charges shall be applied to all persons who use property in a manner which requires City utility facilities or services. The Public Works utility fees and charges shall consist of the following three component charges: The water utility user "customer charge", the "sanitary sewer service" Base and Use charge, and the "storm and surface water" service charge and surcharge. If a customer does not put property to a use which requires one or more of the component utility facilities or services, the customer shall not be charged for such component utility service.

2. Public Works Utilities fees and charges shall be established by resolution of the City Council in an amount reasonable and necessary to fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of the City's utility systems. The component utility charges shall be based on use of the component utility service, determined as follows:

a. Water Usage Charges shall be based on the amount of water used by the customer as indicated by a water meter and/or the cost of providing water service to a structure.

b. Sanitary Sewer Service base and use charges shall be based a customer's average water use during three applicable winter billing cycles. The rationale for this method of calculating sewer use is that water is used primarily for in house purposes in the winter and is thus discharged in an equivalent amount into the City's sanitary sewer system. If no average water charge is available for a particular account, the sewer utility user charge shall be based upon an estimated equivalent until such time as average water use can be determined. If actual average water use is lower than the estimated equivalent, the customer shall be entitled to a refund of the amount charged in excess of actual average water use.

c. Storm and Surface Water service and surcharge fees shall be based upon the amount of impervious surface used by a customer. Owners or occupants of undeveloped property shall not be charged. Each customer using a location for single family residential shall be charged a uniform rate based upon containing one equivalent service unit (ESU). The charge for all other parcels shall be based upon the total amount of measured impervious surface used divided by one ESU and rounded to the nearest whole number. The actual service charge shall be computed by multiplying the amount of ESUs measured for each use by the rate established for each ESU.

3. Street Maintenance Fees shall be billed and collected during the same billing frequency as other utility fees and charges. These fees are adopted by Council and are based on residential and non-residential

rates as listed in the City of Tigard Fees and Charges Schedule.

12.01.070 Application for Utility Service.

Application to use the City utility system shall be made to the City Finance / Information Department. The application shall be made in such form as may be required by the City. The City may require such application to be in writing, or may allow application by telephone or other method. All persons receiving utility service but for whom no account exists to pay for such services shall be deemed to be applicants for such service and shall be billed for such service.

Water service within the Tigard Water Service Area will be furnished for ordinary domestic, business and community purposes, and fire protection only. No water service will be provided for the direct operation of steam boilers, machinery or golf courses, except on an interruptible basis, and the City will assume no responsibility therein.

12.01.080 Responsibilities of Property Owners and Tenants.

Owners of property served by City utility facilities that are not the customer shall not be responsible for any delinquent utility charges which the customer fails to pay. If water service is terminated because of delinquent non-payment, and the customer vacates the premises leaving an outstanding bill, service shall be restored at the request of the property owner or new tenant without requiring the property owner or new tenant to pay the outstanding bill.

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

12.01.090 Violation of Utility Services Code.

1. Waste

No customer shall cause or permit water to run or be discharged through the fixtures, pipes or faucets on the customer's premises in excess of the quantity necessary for domestic, irrigation or other permitted purposes under this Code.

2. Damage.

No person shall willfully or maliciously damage or in any manner interfere with or remove any of the pipes, valves, back flow prevention devices, meters, lock seals, surface water management systems or other property belonging to the City or used in connection with the City utility system. Any person violating this section shall be charged for all costs associated with repairing any such damage or interference, plus any penalty. This charge may be added to the utility bill. Failure to pay such repair charges shall be a basis for discontinuance of service.

3. Tampering.

No unauthorized person shall tamper with, alter, or damage any part of the City utility system, reservoir system, pumping station, surface water management system, metering facilities, open or close any fire hydrant or service line. No person shall alter the utility service in a manner which would allow service to more than one household without applying for service and complying with this Code. The Council may establish a tampering fine by resolution for violation of this provision. This fine may be included in the utility bill. Failure to pay that fine can result in discontinuance of service.

4. Surface Water-Sewer Connection Prohibited.

A. No person shall attach or maintain an existing attachment of a storm water sewer, surface water drainage or storm drain to the City's sewage disposal system. The City may condition approval of development, building or occupancy permits or business licenses on removal of the connection.

B. No person shall attach or maintain an existing attachment of a sanitary sewer or wastewater pipe or drainage to the City's surface water management system. The City may condition approval of development, building or occupancy permits or business licenses on removal of the connection.

5. Disposal of Septic Waste into City System Prohibited.

No person shall dump or discharge septic tank waste in the City sewer system.

6. Prohibited Conduct.

A. No person shall dump or discharge debris, soil, and pollutants such as fuels, lubricants, bitumen, sewage, paint and other harmful or hazardous materials into the surface water management system.

B. No person shall discharge place, deposit, dump or otherwise contribute a solid or liquid material into the public surface water system, either directly or indirectly, which may obstruct flow or otherwise interfere with the operation or function of the public surface water management facility. This shall include, but is not limited to, placing of rock or soil without an approved fill permit, or the dumping of debris, rubbish, trash or other waste material.

C. Violation of this section is punishable by a fine of not more than \$5,000. Violation of this section a second or subsequent time within a 24-month period is punishable by a fine of not less than \$1,500 and not more than \$5,000.

7. Code Violation a Civil Violation.

In addition to the other penalties provided by this Code and State law, a violation of any requirement of the Utility Code shall be a civil violation pursuant to Tigard Municipal Code 1.16 and may be prosecuted in the Municipal Court of the City of Tigard. (Ord. 94-19)

12.10.100 Administrative Rules and Supplemental Regulations

**Applicable to Chapter 12
Utility Services Code.**

1. Adoption of Administrative Rules and Supplemental Regulations pertaining to all sections of Chapter 12 – Utilities Services Code.

a. The City Council has the authority to adopt the initial administrative rules and supplemental regulations related to the provisions of the Utility Services Policies. Such initial rules and regulations shall be adopted by resolution.

b. The City Manager or designee has the authority to amend the administrative rules and supplemental regulations related to the provisions of the Utility Services Policies. The City Manager or designee has the authority to administer the rules and regulations whether adopted by the City Council or by the City Manager under interim permanent rules procedures. Rules subsequent to the initial rules adopted by City Council will be adopted according to the procedures in this section.

2. Permanent Administrative Rules and Supplemental Regulations.

Prior to the adoption of a permanent administrative rule or supplemental regulation, the City Manager or designee will:

a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than 14 days before the deadline for receipt of comments. The notice shall provide a brief description of the subjects covered by the proposed administrative

rule or supplemental regulation; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained.

b. The City Manager or designee will receive written comments regarding the proposed administrative rule or supplemental regulation. The City Manager or designee will take into consideration the written comments received and may either adopt, modify or reject the proposed administrative rule or supplemental regulation.

c. If a substantial modification is made to the proposed administrative rule or supplemental regulation, the City Manager or designee may adopt the modification as an interim administrative rule or supplemental regulation, or provide additional public comments prior to adoption.

d. Unless otherwise stated, all administrative rules or supplemental regulations will be effective on the 14th day after adoption by the City Manager or designee unless a written protest is received by the City Manager or designee.

e. If written protest of the proposed administrative rule or supplemental regulation is received by the City Manager or designee on or before the fourteenth day after adoption, the City Manager or designee shall refer the administrative rule or supplemental regulation to the City Council for a public hearing. The Council may adopt, modify or reject the rule or regulation. The Council's decision on the contents of the

proposed rule or regulation shall be final and effective upon passage.

3. Interim Rules.

a. Interim administrative rules or supplemental regulations will be effective for a period of not longer than 180 days.

b. Not more than 30 days after adoption of an interim administrative rule or supplemental regulation, public notice of the interim rule or regulation must be published in a newspaper of general circulation in the City. Such notice must identify the location at which copies of the full set of the interim administrative rules or supplemental regulations may be obtained.

4. All permanent and interim administrative rules and supplemental regulations must be filed in the office of the City Manager or designee. (Ord. 09-05 §1)