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CHAPTER 50: SOLID WASTE

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SOLID WASTE MANAGEMENT AND FRANCHISES**CCT 50.01 SHORT TITLE AND AUTHORITY.**

This subchapter shall be known as the *Solid Waste Management and Franchise Ordinance* (hereafter *this subchapter*). Authority pursuant to this subchapter is adopted. The subchapter is adopted under O.R.S. 459A.085 and the municipal authority of the city. This action carries out O.R.S. 459.015 and the State Solid Waste Management Plan. (Ord. 1155, passed 6-1-1998)

CCT 50.02 PURPOSE, POLICY AND SCOPE.

(A) *Purpose and policy.* In order to protect the health, safety, welfare and environment and to conserve energy and natural resources within the city; to provide for the opportunity to recycle; and to otherwise provide for solid waste management, it is declared to be the public policy of the city to regulate solid waste management to:

(1) Carry out policies in O.R.S. 459.015 and to provide for the opportunity to recycle taking advantage of a coordinated area-wide recycling collection service and promotion, education and marketing program;

(2) Ensure safety accumulations, storage, collection, transportation and disposal of or resource recovery of solid wastes;

(3) Ensure maintenance of economical solid waste collection service;

(4) Ensure rates that are just, fair, reasonable and adequate to provide necessary service to the public; and

(5) Prohibit rate preferences and other discrimination practices which benefit one of a few users at the expense to other users of the service or the public.

(B) *Scope.* No persons shall accumulate, store, collect, transport or dispose of, or resource-recover solid wastes or provide service, except in compliance with this subchapter with O.R.S. Chapter 459 or 459A dealing with solid wastes, and with regulations of the Environmental Quality Commission promulgated thereunder. Unless as otherwise provided, no person shall provide or offer to provide solid waste collection service for profit within the city franchise area. (Ord. 1155, passed 6-1-1998) Penalty, see CCT 50.99

CCT 50.03 GENERAL DEFINITIONS.

For the purpose of this subchapter, words used in the present tense shall include the future tense, the singular includes the plural, the word *shall* is mandatory, the words *will* or *may* are permissive, and masculine shall include the feminine. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Tillamook.

CITY COUNCIL. The City Council of Tillamook, Oregon.

COLLECTION FRANCHISE. A franchise granting exclusive rights to provide solid waste collection and transport services for compensation within a defined service area in accordance with this subchapter.

FRANCHISEE. The holder under contract of any collection franchise under this subchapter.

GROSS REVENUE. The amount of money actually collected, less waste container rental, tipping fees and revenues from recyclable materials, by the franchisee from his or her city customers by franchisee during the quarter of time in question.

PERSON. Individuals, corporations, associations, firms, partnerships, joint stock companies, estates, trusts or any other legal entity.

RECYCLABLE MATERIAL. Any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

RECYCLABLE RECOVERY. The process of obtaining useful material or energy resources from solid waste and includes energy recovery, material recovery, recycling and reuse.

RECYCLING. Any process by which solid waste materials are transformed into new products and may lose their identity.

REUSE. The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

SERVICE. A collection service as defined by O.R.S. 459.005, which **SERVICE** includes the collection, transportation, recycling or other resource recovery of or from solid waste or recyclable material, or both.

SOLID WASTE. All putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper, cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; partially burned materials, discarded materials, discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals, infectious waste as defined in O.R.S. 459.386, and other wastes. **SOLID WASTE** does not include:

(1) Hazardous wastes as defined in O.R.S. 466.005; and

(2) Materials used for fertilizer or for other productive purposes or which are salvageable as these materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

SOLID WASTE MANAGEMENT. The prevention or reduction of solid waste; management of the storage, transfer, collection, transportation, treatment, utilization processing and final disposal of solid waste; or the resource recovery from solid waste, and facilities used for those activities.

SOURCE SEPARATE. Recyclable materials that have been separated from the solid waste stream by the person who last used the recyclable materials.

WASTE. Material that is no longer wanted or useable by the source generator or producer of the material, and the material is to be disposed of or resource-recovered by another person, and includes both source separated material and non-source separated materials.
(Ord. 1155, passed 6-1-1998)

CCT 50.04 FRANCHISES.

(A) *Establishment.*

(1) *Application for franchise.* Application for a franchise shall be in a format approved by City Council resolution and shall contain relevant information required by state law and this subchapter.

(2) *Award of franchise.* Award of a franchise shall be by City Council resolution. **AWARD OF FRANCHISE** is an offer to contract, subject to conditions subsequent of the franchisee's acceptance and execution of an agreement. If the franchisee does not accept the city's offer within 14 days of that offer, then the city may withdraw its offer at any time. A franchise is not perfect and binding on the city until an agreement detailing the terms and conditions of the franchise is executed by the city and the franchisee.

(B) *Franchise area defined.* The **FRANCHISE AREA** shall be the area within the city limits as they now exist or hereafter exist through annexations to the city, subject to O.R.S. 459.085.

(C) *Route selection.* The City Council may designate the streets and roads to be used by the franchisee in providing service and may reroute where traffic conditions, the public convenience or public welfare so require.

(D) *Franchise fee.* The franchisee shall pay quarterly to the city 4% of the franchisee's gross quarterly revenue received on an annual basis during the period beginning July 1, 2008 and ending June 30, 2010. Beginning July 1, 2010 the percentage will be 5% of the franchisee's gross quarterly revenue received on an annual basis and this percentage will be in effect until June 30, 2018. Payment of franchise fees shall be made to the city on or before the fifteenth day of the month following the preceding quarter. Quarter-year periods shall be July 1 through September 30, October 1 through December 31, January 1 through March 31 and April 1 through June 30; all dates are inclusive. This fee is subject to an annual review by the City Council. In addition, the franchisee shall supply and service without additional charge to City Hall one commercial collection receptacle not exceeding customary size or weight limits unless otherwise agreed in any franchise agreement.

(Ord. 1155, passed 6-1-1998; Ord. 1165, passed 4-2-2001; Ord. 1232, passed 5-5-2008)

CCT 50.05 FRANCHISEE RESPONSIBILITY/DUTIES.

(A) *Duties.* The franchisee shall:

(1) Dispose of wastes collected at a site approved by the local government unit having jurisdiction or resource-recover the wastes, both in compliance with O.R.S. Chapters 459 and 459A and regulations promulgated thereunder;

(2) Keep accurate books of account, and city shall have the right to inspect the same at all times during business hours and from time to time audit the same for the purpose of determining the gross revenues and solid waste ordinance compliance;

(3) Provide and keep in force public liability insurance in the amount of not less than \$200,000 for injury to a single person, \$500,000 to a group of persons and \$50,000 property damage, which shall be evidenced by a certificate of insurance filed with the City Recorder;

(4) Within 30 days after the effective date of any offers to franchise under this subchapter, file with Recorder of the city a written acceptance of the collection franchise and the terms of this subchapter which shall be evidenced by endorsement in the form prescribed by the City Council;

(5) Provide sufficient collection vehicles, containers, facilities, personnel and finances to provide all types of necessary service, or subcontract with others to provide that service pursuant to this subchapter;

(6) Respond promptly to any written complaint on service and send a copy to the city of the complaint and the response; and

(7) Provide for the operation of the recycling depot at the franchisee's business office which is in the city to be open to the general public to drop off recycling materials on Monday through Friday from 9:00 a.m. to 5:00 p.m. and on Saturdays from 9:00 a.m. to 3:00 p.m.

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(B) *Prohibitions.* The franchisee shall not:

(1) Give any rate preferences to any person, locality or service. This division (B) shall not prevent uniform classes of rates based upon length of haul, type or quantity of waste handled and location of customers so long as the rates are reasonably based upon costs of the particular service and are approved by the Council on the same manner as other rates, nor shall it prevent any person from volunteering service at no charge for a charitable, community, civic or benevolent purpose; or

(2) Transfer this franchise or any portion thereof to other persons without the prior written consent of the City Council, which consent shall not be unreasonably withheld. In addition, the City Council shall approve the transfer if the transferee meets all applicable requirements met by the original franchise holder. In addition, the City Council acting upon application to transfer the franchise may attach whatever conditions it deems appropriate to guarantee maintenance of service and compliance with this subchapter.

(C) *Public responsibility.* In addition to compliance with O.R.S. Chapters 459 and 459A and regulations promulgated pursuant thereto:

(1) Each person in the city shall dispose of his or her putrescible wastes in an approved manner at least every 14 days or at more frequent intervals where necessary, to prevent the creation of health hazards, rodent harborage or sustenance, vector production or sustenance, or public nuisances;

(2) No person shall use any of the following garbage cans for collection by the franchisee:

(a) Cans exceeding 50 pounds per 32-gallon size and gross loaded weight;

(b) Cans exceeding 32 gallons in size, unless rented or purchased from the franchisee;

nor

(c) Any sunken can.

(3) Garbage cans and containers must be located where access and egress is possible without hazard or risk to the person providing service or other persons, or risk to property, and shall be located outside of any locked or latched gate or outside of any garage or other building;

(4) No stationary compactor or other container for commercial or industrial uses shall exceed the safe loading design for collection vehicles providing the service. Stationary compacting devices for handling solid wastes or recyclable materials shall comply with applicable federal and state safety regulations;

(5) Any person who receives service shall be responsible for the payment for that service. The landlord of the premises impliedly consents to the provision of service to the tenant thereof and shall be responsible for payment for the service if the tenant does not pay; and

(6) Containers within an enclosure will be subject to an additional charge unless the customer moves them outside of the enclosure.

(D) *Exemptions.* Nothing in this subchapter shall:

(1) Prevent the officers of city from employing persons and using vehicles for the purpose of collection and removal of solid wastes for an annual cleanup or cleaning the public right-of-way;

(2) Prevent any person from transporting wastes produced by himself or herself at home or work, if the loading and operation of the vehicle containing the wastes prevents the contents from dropping, sifting, leaking or otherwise escaping onto the public right-of-way or property adjacent thereto, and if the wastes will be disposed of, or resource-recovered, pursuant to all applicable laws, ordinances and regulations of federal, state or local government units having jurisdiction;

(3) Prevent another person from transporting hazardous wastes, excluded wastes or, with permission of the franchisee, materials which by their size or weight cannot be handled in open trucks, front-end loaders or roll-off box trucks supplied by the franchisee directly or through subcontract. Upon notice by a customer within the city of unusual size or weight materials, if the franchisee cannot provide the service, he or she shall waive the exclusive franchise with respect to these hazardous wastes and/or materials only. This waiver requested by the customer shall be oral or written to the city and franchisee, but a written notice shall be filed with the city and a copy going to the franchisee. The person in whose favor the waiver is granted shall obtain a permit from the city for the hauling and shall pay the same franchise fee to the city as would have been required of the franchisee under CCT 50.04(D);

(4) Prevent civic, benevolent or charitable organizations from providing recycling or reuse services as a fund-raising drive or benefit; or

(5) Prevent the City Council from withdrawing other collection activities or practices upon findings there is no need for regulation and no substantial impact on the purposes of this subchapter, service to customers, consumer rates or service of, and financial stability of, the franchisee. (Ord. 1155, passed 6-1-1998; Ord. 1232, passed 5-5-2008; Ord. 1236, passed 7-21-2008) Penalty, see CCT 50.99

CCT 50.06 TERMINATION OF SERVICE BY FRANCHISEE.

The franchisee shall not terminate services to all or a portion of the franchisee’s customers unless:

(A) The street or road access is blocked and there is no alternate route and provided that the city shall not be liable for any blocking of access;

(B) Excessive weather conditions render providing service unduly hazardous to persons provided service, or the termination is caused by accidents or casualties caused by an act of nature or a public enemy; or

(C) A customer has not paid for service provided after a regular billing and after a service of seven days' written notice to pay by mail or personal notice.

(Ord. 1155, passed 6-1-1998)

CCT 50.07 RATES AND FEES.

(A) *Generally.* Only rates and rate adjustments for service shall be established by the City Council after not less than one public hearing by City Council. Rates and rate adjustments shall be by resolution. No ordinance amendment is required. A copy of the current resolution marked Exhibit A attached to Ordinance 1155 is incorporated here by this reference as if set out in full herein.

(B) *Considerations.* In determining the appropriate rate or rate adjustment to be charged by the franchisee, the Council may consider any or all of the following:

- (1) The cost of performing the service provided by the franchisee;
- (2) The anticipated increase in the cost of providing this service;
- (3) The need for equipment replacement and the need for additional equipment to meet service needs; compliance with federal, state, local law, ordinances and regulations or technical change;
- (4) The investment of the franchisee and the value of the business and the necessity that the franchisee have a reasonable rate of return;
- (5) The rates charged in other cities of similar size for similar service;
- (6) The public interest in assuring reasonable rates to enable the franchisee to provide efficient and beneficial service to the residents and other users of the service;
- (7) The local wage scales, cost of management facilities and disposal fee or charges;
- (8) Any revenues and/or expenses resulting from recycling; and
- (9) Other factors which may, in the opinion of the City Council, necessarily affect the rates to be charged.

(C) *Periodic rate adjustment.* The City Council may from time to time after a public hearing adjust the rates charged by the franchisee by City Council resolution. Upon its adoption, that resolution supersedes and rescinds those provisions of any prior Exhibit A (as adopted) in conflict therewith.

(D) *Billing; overdue accounts; collection and late fees.* Franchisee may charge a collection charge of a minimum of \$1.00 on billings 30 days overdue, \$1.50 on 60 days overdue and \$2.50 on 90 days overdue. Where the overdue billing exceeds \$100.00, a collection charge of up to 1.5% of the overdue amount may be charged in lieu of and not in addition to charges otherwise specified in the section. These charges shall be in lieu of any interest to be charged for overdue accounts. Billing may be 60 days in advance. However, any unearned balance shall be refunded to any customer for the days prepaid following the date of any customer's service termination notice to the franchisee.

(E) *Investment.* The investment of the franchisee and the value of the business and the necessity that the franchisee have a reasonable rate of return between 12% and 17%.
(Ord. 1155, passed 6-1-1998; Ord. 1232, passed 5-5-2008)

CCT 50.08 AGREEMENT REQUIRED.

(A) *Written agreement.* The franchisee shall execute a written agreement with city within 30 days of the franchisee's acceptance of the city's offer to franchise. If no agreement is executed within that time, then the city's offer shall expire without further notice required. The city shall proceed to extend an offer to franchise with any other proposer or shall announce the availability of the franchise, whichever in the city's sole discretion the city decides.

(B) *Subcontracts.* The franchisee may subcontract with others to provide a portion of the service where franchisee does not have the necessary equipment for service. A subcontract shall not relieve the franchisee of a total responsibility for providing maintaining service and for compliance with this subchapter. Except where emergency service is provided by a subcontractor, subcontracts shall:

- (1) Be in writing;
 - (2) Be filed with the City Recorder for any service extending more than 90 days;
 - (3) Provide that the subcontractor shall have no claim or right of action whatsoever against the city; and
 - (4) Be available upon request to the city and the public.
- (Ord. 1155, passed 6-1-1998)

CCT 50.09 EXCLUSIVE FRANCHISE.

Upon compliance with all conditions precedent with this subchapter and state law, franchise(s) granted under this subchapter shall be exclusive, unless otherwise expressed.

(A) *City findings.* City shall comply with O.R.S. 459A.085 when awarding franchises under this subchapter. Compliance with the statutes shall be determined relative to the permissive and mandatory language there.

(B) *Terms and conditions.*

(1) *Franchise term.* Nothing in this section shall interfere with the rights of the city and City Council under this subchapter in the event the franchisee breaches, defaults or otherwise fails to perform any obligations of the franchise or franchise agreement.

(2) *Opportunity to recycle required.* O.R.S. 459A.085(6)(a) applies to any franchise under this subchapter.

(3) *Franchise term and renewals.* The term for any franchise agreement may be up to ten consecutive years. Unless grounds exist for refusal to renew a franchise under this subchapter, any franchise may be renewable.

(4) *Third-party responsibility.* The city is not a party to the contract between franchisee and any person receiving collection services. The city by this subchapter expressly disclaims any suretyship or any other type of payment guarantee for persons receiving collection services under this subchapter. The franchisee solely determines rates and fees for services provided by the franchisee that are not regulated by this subchapter. Services not regulated by this subchapter are not subject to the franchise fee.

(Ord. 1155, passed 6-1-1998)

CCT 50.10 TERMINATION, MODIFICATION, SUSPENSION, REVOCATION OR REFUSAL TO RENEW A FRANCHISE.

(A) *One-year notice.* City and/or franchisee shall notify the other in writing not less than one year in advance of the date the respective party intends to terminate, refuse to renew or suspend collection service under any contract under this subchapter. This provision is intended to allow city and franchisee time to plan and adapt to the change in their contractual relationship.

(B) *Opportunity to comply.* Failure of franchisee to comply with a written notice to provide necessary service or otherwise comply with the provisions of this subchapter after a reasonable opportunity to comply shall be grounds for modification, revocation, suspension or refusal to renew the collection franchise without further notice required.

(C) *Thirty days to comply or request hearing.* After written notice from the City Council that those grounds exist, the franchisee shall have 30 days from the date of mailing of the notice in which to comply or to request a public hearing before the City Council.

(D) *Failure to comply.* If the franchisee fails to comply within the specified time or fails to comply with the order of the City Council entered upon the basis of findings at the public hearing, the City Council may suspend, modify or revoke the franchise or refuse to renew it, or make the action contingent upon continued noncompliance.

(E) *Public hearing.* At a public hearing, the franchisee and other interested persons shall have an opportunity to present oral, written or documentary evidence to the City Council.

(F) *Emergency action.* In the event that the City Council finds an immediate and serious danger to the public, it may take action regarding any existing franchise under this subchapter without notice and/or hearing. However, notice and/or public hearing shall be provided by the city as soon as practicable following the emergency action.
(Ord. 1155, passed 6-1-1998)

CCT 50.11 ANNEXATION.

Subject to O.R.S. 459.085, the city reserves all rights to serve any and all annexations to the city.
(Ord. 1155, passed 6-1-1998)

CCT 50.12 REMEDIES.

(A) *Remedies.* The remedies available to the city under this subchapter, if any, are in addition to and not in lieu of any other legal and/or equitable remedies otherwise available.

(B) *Appeal.* Any person having a legal issue concerning the application of this subchapter or any contract executed hereunder shall first present the issue to City Council or its designee for resolution. The aggrieved person shall at his or her own expense cause notice to be given to all other necessary parties, if any, including without limitation the city and any relevant franchisee. Notice shall be actual notice or notice by first-class United States mail, mailed at least 14 days in advance of the date the city is scheduled to hear the issue.

(C) *Decision.* City Council, or its designee, shall decide the issue within 14 days of the date the city heard the dispute. If the city fails to issue a decision within 14 days, and unless otherwise agreed among the parties, then the city shall be presumed to have denied the applicant's request. The applicant may then proceed accordingly.

(D) *Supervision and enforcement.* Service provided under the collection franchise designated by the City Council shall be under the supervision of the Council. The Council may make inspections of equipment and service practices, investigate written complaints and take any further action as required.
(Ord. 1155, passed 6-1-1998)

CCT 50.13 GENERAL PROVISIONS.

(A) *Interpretation.* The city expressly reserves the right to interpret the terms of its own ordinances. The city's adoption of law from other jurisdictions shall not imply the city's adoption of any prior, present or subsequent interpretation of that other jurisdiction's law. These interpretations may be instructive, but not binding on the city.

(B) *Amendment.* The city expressly reserves the right to amend this subchapter at any time. Nothing in this section shall be construed to excuse the city or franchisee from complying with changes in state law. An ordinance amendment shall not be effective upon any existing franchise agreement

unless the franchisee consents in writing; this consent shall not be unreasonably withheld.

(C) *Controls over franchise agreements.* The City Council or its designee is the sole interpreter of this subchapter. This subchapter shall control over any conflict with any franchise granted hereunder.

(D) *Non-waiver; modification.* Failure by city to enforce any provision of this subchapter does not constitute city's continuing waiver of that provision, any other provision or of the entire subchapter. The rights and duties under this subchapter shall not be modified, delegated, transferred or assigned, except upon written signed consent of city. The city's waiver of any ordinance or contract provision shall occur, if at all, only upon a written resolution or other appropriate Council action. Any waiver shall be recorded in the minutes of the next available City Council meeting or subsequent meeting before that waiver shall be effective.

(Ord. 1155, passed 6-1-1998)

GARBAGE COLLECTION

CCT 50.30 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. Includes all animal and vegetable matter, refuse and household waste, or materials or matter prepared or intended in whole or in part to be used for food; also all animal and vegetable refuse from places where foodstuffs intended for human consumption are handled commercially.

RUBBISH. All solid waste, other than garbage.
(1977 Code, ' 4-1) (Ord. 603, passed 5-21-1945; Ord. 895, passed 5-23-1977)

CCT 50.31 GARBAGE CONTAINERS.

(A) An occupant or person in charge of premises where garbage accumulates shall keep or cause to be kept on the premises one or more portable containers of a standard type suitable for deposit of garbage and shall deposit or cause to be deposited in the containers all garbage that accumulates on the premises.

(B) Garbage containers shall be sturdy, watertight, not easily corrodible, rodent- and insect-proof, and have handles at the sides and tightly fitting lids. When not being emptied or filled, the containers shall be kept tightly closed. They shall be conveniently accessible to garbage haulers.

(C) Garbage containers shall conform in capacity and weight to limitations prescribed by the state.

(D) A portable garbage compactor-container designed for being loaded and unloaded with a front- or rear-mount forklift, unless so constructed and wheeled that it can be towed to a solid waste disposal site for emptying, may not, together with its contents, exceed 4,000 pounds in weight.

(1977 Code, ' 4-1) (Ord. 603, passed 5-21-1945; Ord. 895, passed 5-23-1977)

CCT 50.32 BUNDLES; WEIGHT LIMIT.

Unless special service or special equipment is provided by the collector for handling unconfined waste, materials such as rubbish and refuse, brush, leaves, tree cuttings and other debris for manual pickup and collection shall be in securely tied bundles or in boxes, sacks or other receptacles; and solid waste so bundled shall not exceed 60 pounds in weight. The above-described unconfined waste shall not be mixed with garbage.

(1977 Code, ' 4-1) (Ord. 603, passed 5-21-1945; Ord. 895, passed 5-23-1977)

CCT 50.33 CONSTRUCTION WASTE; PERMIT.

In addition to a demolition building permit, a permit is required for the hauling of demolition and construction wastes. The permit shall be issued in the City Recorder's office, and the fee for the permit shall be \$25.

(1977 Code, ' 4-1) (Ord. 603, passed 5-21-1945; Ord. 895, passed 5-23-1977)

CCT 50.34 SERVICE SCHEDULE; CONTAINER SANITATION.

Garbage containers shall be removed from the premises where located and emptied at intervals of not more than one week and shall not be permitted to leak or distribute garbage and shall be kept clean and free of odor by the owner or person in charge of the garbage containers.

(1977 Code, ' 4-1) (Ord. 603, passed 5-21-1945; Ord. 895, passed 5-23-1977)

CCT 50.35 COLLECTION VEHICLES; LEAKING LOADS.

Any person who engages in the hauling of garbage and rubbish within the corporate limits of the city shall provide trucks or other vehicles with steel bodies and leakproof bottoms. No garbage or rubbish may be hauled upon or over the streets of the city unless it is put in steel containers which are leakproof and hauled in trucks or other vehicles with steel bodies with a leakproof bottom. No garbage or rubbish may be permitted to leak from containers or vehicles or be strewn upon or scattered over the streets, sidewalks or other public ways of the city.

(1977 Code, ' 4-1) (Ord. 723, passed 8-3-1959; Ord. 895, passed 5-23-1977)

CCT 50.36 HOURS OF COLLECTION.

Licensees who engage in garbage and rubbish collection shall collect the garbage and rubbish only between the hours of 4:30 a.m. and 4:30 p.m. on collection days.

(1977 Code, ' 4-1) (Ord. 723, passed 8-3-1959; Ord. 895, passed 5-23-1977)

CCT 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to CCT 10.99.

(B) Violation by any person of the provisions of CCT 50.01 through 50.13 shall be deemed to be a misdemeanor and be punishable upon conviction by not more than \$500 or by imprisonment in the county jail for not more than six months, or by both.

(C) Violation of any provision of CCT 50.30 through 50.36 is punishable by a fine not to exceed \$100, or by imprisonment not to exceed 30 days, or by both the fine and imprisonment.

(1977 Code, ' 4-1)

(Ord. 603, passed 5-21-1945; Ord. 895, passed 5-23-1977; Ord. 1155, passed 6-1-1998)

CHAPTER 51: WATER

Section

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- 51.16 Offenses against the purity of the water supply
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CITY WATER RULES AND RATES

CCT 51.01 RULES AND REGULATIONS.

There is hereby adopted and incorporated in this subchapter by reference the terms and provisions of the rules and regulations for the conduct and operation of the City Water Division and its services, as may be amended by Council from time to time.

(1977 Code, ' 3-4) (Ord. 877, passed 4-11-1977)

CCT 51.02 RATE SCHEDULES.

The city shall establish water rate service schedules from time to time, which are adopted by reference and shall be made available for public inspection.

(1977 Code, ' 3-4) (Ord. 877, passed 4-11-1977)

CITY WATER SUPPLY PROTECTION

CCT 51.15 DEFINITIONS.

As used in this subchapter, the singular shall include the plural and the masculine shall include the feminine. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. Tillamook City, Oregon.

PERSON. An individual, firm or corporation.

WATERSHED. All property owned, acquired or occupied by the city's waterworks, reservoirs systems, springs, branches, pipes; and all lakes, rivers, springs, streams, creeks or tributaries acquired by the city, or the right of use of water therefrom acquired by the city constituting sources of city water supply and by means of which the city supplies water, or stores or conducts the water supply; and all property acquired for the preservation and protection of the purity of the city water supply; and all property owned or possessed by the city within the areas draining into lakes, rivers, springs, streams, creeks or tributaries constituting those sources of water supply.

(1977 Code, ' 4-5) (Ord. 780, passed 3-20-1967)

CCT 51.16 OFFENSES AGAINST THE PURITY OF THE WATER SUPPLY.

No person shall corrupt, pollute, impair or endanger the purity of the city water supply by:

(A) Going or trespassing upon the area within the watershed;

(B) Permitting any animal owned, controlled or possessed by him or her to run at large or go upon the area within the watershed;

(C) Leaving, keeping, placing or depositing any garbage, refuse, offensive material or personal property of any kind within the watershed;

(D) Carrying or discharging a firearm or killing any animal or fowl within the watershed;

(E) Picnicking, hunting, smoking, lighting a fire or maintaining a fire within the watershed;

(F) Driving a motor vehicle in the watershed; or

(G) Bathing or swimming or placing any article or substance in or so near the water supply so as to be apt to cause pollution or danger to the purity of the lakes, springs, streams, dams, creeks or tributaries in the watershed.

(1977 Code, ' 4-5) (Ord. 780, passed 3-20-1967) Penalty, see CCT 51.99

' 51.17 POLLUTION PROHIBITED.

No person shall establish or maintain a slaughter pen, stock feeding yard or hogpens, or deposit or maintain any unclean or unwholesome substance, conduct any business or occupation, or allow any condition upon or sufficiently near the sources from which the city water supply is obtained, or where water is stored, on the property or means through which it may be conveyed or conducted, so that the water should be polluted or its purity destroyed or endangered.

(1977 Code, ' 4-5) (Ord. 780, passed 3-20-1967) Penalty, see CCT 51.99

CCT 51.18 PLACING SUBSTANCES ON WATERSHED PROHIBITED.

No person shall place or cause to be placed within the watershed any substance which either by itself or in connection with other matter will corrupt, pollute or impair the quality of the city water supply. No owner of any dead animal shall knowingly leave or cause to be left the carcass or any portion thereof within the watershed in a condition as to in any way corrupt or pollute the city water supply.

(1977 Code, ' 4-5) (Ord. 780, passed 3-20-1967) Penalty, see CCT 51.99

CCT 51.19 DEFACING OF SIGNS PROHIBITED.

No person shall alter, change, deface, destroy or remove any sign, warning or notice posted by the city, or caused to be posted by the city or its duly authorized agents in the watershed.

(1977 Code, ' 4-5) (Ord. 780, passed 3-20-1967) Penalty, see CCT 51.99

CCT 51.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to CCT 10.99.

(B) Any person found violating any of the provisions of CCT 51.15 through 51.20 shall, upon conviction, be punished by a fine of not more than \$500, or by imprisonment in jail for not more than 50 days, or by both the fine and imprisonment.

(1977 Code, ' 4-5) (Ord. 780, passed 3-20-1967)

CHAPTER 52: SEWERS

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GENERAL PROVISIONS

CCT 52.001 WASTEWATER FACILITIES PLAN.

The Wastewater Facility Plan document prepared for the city by Kennedy/Jenks Consultants and dated August 2005, along with any subsequent amendments, is hereby adopted and incorporated herein by reference.

(Ord. 1202, passed 10-3-2005)

SEWER REGULATIONS**CCT 52.015 NECESSARY CONNECTIONS.**

Within 30 days after notice from the city, the person in charge of any building or premises within the city sewer district shall connect the building or premises with the city sanitary sewer. The connection shall provide outlets for all water closets, wash stands, slop stands, sinks and any other equipment and devices for the disposal of sewage and drainage from the building or premises. In certain instances, if the buildings and premises are within the sewer district of the city, the owner, agent, occupant or other person in charge of any building or premises shall, within 30 days after notice from the city so to do, construct and place in operation a cesspool, septic tank or other device as shall be approved by the Plumbing Inspector for the purpose of disposing of all sewage and drainage from the buildings and premises.

(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.016 CONNECTION PERMIT.

All persons desiring to connect to the city sewer system shall make application to the city for a connection permit. The hook-up or connection fee provided for in CCT 52.053 shall accompany the application.

(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.017 PROHIBITED OPENINGS.

No person except the Director of Public Works or a duly authorized assistant shall open or uncover any manhole, air cooler, flush tank or private connection with the public sewers without the permission of the city. Nor shall any person leave openings in sewers without ample protection against admission of dirt, rubbish or other matter tending to block the flow of sewage.

(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978) Penalty, see CCT 52.999

CCT 52.018 CONNECTIONS TO THE MAIN SEWER.

(A) Connection to the main sewers or laterals must be made into a AY@ branch. Where no branch is available within a reasonable distance, a AY@ branch shall be inserted in the sewer line. In no case shall connection to any sewer of 12-inch diameter or less be made except into a AY@ branch fitting. Where a sewer is tapped, a commercial saddle type clamp shall be used. Sewers shall not be tapped below the centerline of the pipe, and all tapes shall be inspected and meet with the approval of the City Engineer. No connection of downspouts, roofs and foundation drains or other clean water sources shall be allowed to any city sewer collection lines. Any such connections that are found to exist shall be immediately disconnected from the sewer system at the owner's expense.

(B) Service laterals from a structure to the main sewer line shall be maintained by the owner of the structure in such a manner as to prevent infiltration of groundwater into the collection system. (1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978; Ord. 959, passed 7-16-1979; Ord. 1047, passed 4-2-1984)

CCT 52.019 WASTE PRODUCTS.

It shall be unlawful to dump or allow to enter into the sewage system of the city the following waste products:

(A) Petroleum, coal, tar, oils and their derivatives and wastes;

(B) Greases, oils and sludge from service stations, garages, repair shops, machine shops, cleaning establishments or other industries or establishments;

(C) Explosives or flammable liquids and gases;

(D) Acids, alkalis or other corrosive liquids, gases or substances of sufficient strength to damage sewers, manholes, pumping stations or treatment plant units;

(E) Paints or waste products from paint manufacturers;

(F) Substances which will form deposits or obstructions in sewers or which when mixed with sewage will precipitate materials and thus form deposits in sewers;

(G) Ashes, cinders, sand, earth, coal, rubbish or metals of any kind;

(H) Live steam, exhaust steam or water having a temperature above 140 degrees Fahrenheit;

(I) Ground or unground fruit peelings and cores, meat or bones from canneries, packing plants or meat plants;

(J) Cull fruits and vegetables;

(K) Paunch, stable and barn manure;

(L) Offal from slaughter houses; and

(M) Dead animals or parts thereof.

(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978) Penalty, see CCT 52.999

CCT 52.020 GREASE TRAPS.

Adequate grease traps shall be provided for in newly constructed commercial and industrial

establishments.

(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

REGULATIONS FOR PRESSURE SEWER COLLECTION SYSTEMS

CCT 52.035 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPED PARCELS. Any lot on which is situated an industrial, commercial or residential structure. Agricultural buildings are exempt from this definition.

(1977 Code, ' 3-7) (Ord. 969, passed 3-17-1980)

PLANNED ROUTINE MAINTENANCE.

- Cleaning the tank by pumping out the solids from inside the tank and hosing down the tank screen and pump end area of the tank.
- Check tank for visible ground water leaking into the tank.
- Hosing down the pump and checking the pump for a plugged suction and debris in the impeller-but not disassembly of any parts.
- Check float switches for operation and clean by hosing down as needed.
- Observe the check valve is operating and the area around the tank and lateral line to the main line for wet spots or visible leaks.
- Check tank, pump, and control panel for visible damage, corrosion or conditions which could lead to operational problems.

(Ord. 1291, passed 9-2-2014)

CCT 52.036 NECESSARY CONDITIONS.

It shall be mandatory that all developed parcels of land within the city which require sewerage disposal and are served by a pressure sewer system be required to hook up to the sewer within 30 days of service availability. For future developments that require sewer service, a service easement shall be obtained from the property owner prior to issuance of a building permit. In order to continue use of a pressure sewer system, an easement for City access and maintenance shall be provided upon request.

(1977 Code, ' 3-7) (Ord. 969, passed 3-17-1980) (Ord. 1291, passed 9-2-2014)

CCT 52.037 MAINTENANCE OF SYSTEM.

The city shall have the sole maintenance responsibility for any pressure sewer system within its boundaries, and shall include all lines, pumps, tanks and associated fixtures from the tank to the pressure

main. The city's responsibility for maintenance of a system shall begin at the holding tank.
(1977 Code, ' 3-7) (Ord. 969, passed 3-17-1980) (Ord. 1291, passed 9-2-2014)

CCT 52.038 FEES AND RELATED CHARGES.

(A) User fees shall be charged as provided by CCT 52.050 through 52.060. On a monthly basis, each account shall be charged an additional maintenance fee to cover ongoing general maintenance and supervision of the pressure sewer system. A separate maintenance charge shall be assessed for each pump unit. The amount of the charge shall be determined by the City Council and may be revised by resolution as deemed appropriate by that body. The maintenance charge shall be budgeted in a manner in order to provide and maintain an annual maintenance program.

(B) In addition to the general maintenance charge, the city shall charge for labor and materials associated with repair, replacement and maintenance costs for each pumping system. The above charges shall be for all items outside of planned routine maintenance.

(1.) Items the customer is responsible to repair in accordance with City's approval:

- a) Mainline connection
- b) Lateral line
- c) Tank
- d) Valves and fittings
- e) Pump, controls and electrical

The city shall be solely responsible for costs incurred with maintenance of the sewer main. All property owners shall be responsible for electrical charges incurred from operation of their sewerage disposal systems.

(1977 Code, ' 3-7) (Ord. 969, passed 3-17-1980) (Ord. 1291, passed 9-2-2014)

CCT 52.039 APPLICABLE ORDINANCES.

All applicable sections of CCT 52.015 through 52.020, 52.050 through 52.060 and 52.999, relating to the construction and usage of a city sewer system and not in conflict with this subchapter, shall apply equally to a pressure sewer system.

(1977 Code, ' 3-7) (Ord. 969, passed 3-17-1980)

SEWER CHARGES**CCT 52.050 ESTABLISHING RATES AND CHARGES.**

The city hereby establishes the monthly rates and charges for the use of the sewage facilities of the city in accordance with the schedule listed in CCT 52.058.
(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.051 COLLECTION OF CHARGES.

CCTAll charges shall be shown on the regular monthly water bill under the heading "sewer."
(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978) (Ord. 1291, passed 9-2-2014)

CCT 52.052 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

USER. The property owner and/or occupant or tenant of the premises. The property owner is liable for all charges, should any tenant or occupant not pay the charges when due. In any action which may be instituted by the city to recover for any water or sewage service fees or charges, both the occupant of the premises served and the owner of the premises shall be liable for all fees and charges.
(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.053 CONNECTION FEE.

Fees for connecting to the city sanitary sewer are per CCT 52.082.
(1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978; Ord. 1115, passed 6-3-1991)

CCT 52.054 SCHEDULE OF USER RATES.

User rates shall be established by Resolution.
(Ord. 1291, passed 9-2-2014)

CCT 52.055 ENFORCEMENT OF PAYMENT.

The city may enforce the collection of rates and charges for the use of sewage facilities by turning off the water of any delinquent sewer user until the charges are paid or by any other means that may be provided by the laws of the state or permitted by the Charter and ordinances of the city; and any delinquencies may be certified to the Tax Assessor of the county, for collection in the manner and as provided by O.R.S. 454.225. In the event the city elects to institute an action to recover any charges, the city shall be entitled to recover as part of its costs a reasonable attorney's fee to be set by the court. (1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978) (Ord. 1291, passed 9-2-2014)

CCT 52.056 CERTIFICATION PENALTY.

In the event it becomes necessary to certify the service charges hereby established because of the nonpayment thereof, there shall be added to the charges a penalty in the amount of 10% thereof and the same shall bear, when certified, interest at the rate of 8% per annum from the date of the certification. (1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.057 SEWER FUND REVENUE.

The Recorder-Treasurer shall set aside and pay into the Sewer Fund all of the gross revenue received from charges and rates collected for use of the sewer facilities. (1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.058 EFFECTIVE DATE.

This subchapter and CCT 52.015 through 52.039 shall become effective October 1, 1978. (1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

CCT 52.059 REVIEW OF RATES.

A semi-annual review of the rate structures herein provided for this subchapter shall be conducted by the city to ensure adequate revenue for the coming year and continued equitableness of all fees. The City Council may hereafter amend, repeal or modify any of the rates and charges as set forth in this subchapter by resolution, and that resolution shall operate as an amendment to this chapter. (1977 Code, ' 3-6) (Ord. 959, passed 7-16-1979; Ord. 977, passed 7-21-1980)

CCT 52.060 APPEALS.

Any person, business or agency that feels that the above rates are unnecessarily restrictive and inequitable and would cause an undue hardship may appeal to the City Council for an adjustment of the appropriate rate schedule. The appeal must be in writing and contain justification for the appeal. (1977 Code, ' 3-6) (Ord. 926, passed 8-7-1978)

SYSTEM DEVELOPMENT CHARGE**CCT 52.075 PURPOSE.**

The purpose of the system development charge is to impose an equitable share of the public cost of capital improvements for water supply, treatment and distribution; sanitary sewer collection, transmission, treatment and disposal; drainage and flood control; transportation; and parks and recreation, upon those developments that create the need for or increase the demand on capital improvements to be constructed, already constructed or under construction.

(Ord. 1272, passed 12-19-2012)

CCT 52.076 SCOPE.

The system development charge imposed by this subchapter is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development. A system development charge is to be considered in the nature of a charge for service rendered, a service hookup charge or a charge for services to be rendered.

(Ord. 1272, passed 12-19-2012)

CCT 52.077 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAPITAL IMPROVEMENTS. Facilities or assets used for:

- (1) Water supply, treatment and distribution;
- (2) Sanitary sewer collection, transmission, treatment and disposal;
- (3) Drainage and flood control;
- (4) Transportation, including but not limited to streets, sidewalks, bike paths, street lights, street trees, mass public transportation, vehicle parking and bridges; or
- (5) Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks and other recreational facilities.

DEVELOPMENT. Constructing a building or a structure, conducting a mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and 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 CCT 52.078.

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.

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 that includes the yards and other open spaces required under the zoning, subdivision or other development ordinances.

QUALIFIED PUBLIC IMPROVEMENTS. A capital improvement that is required as a condition of development approval, identified in the plan adopted pursuant to CCT 52.082, and either:

(1) Not located on or contiguous to property that is the subject of development approval; or

(2) 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 CCT 52.078 and for which the City Council determines capacity to exist.

SYSTEM DEVELOPMENT CHARGE. A reimbursement fee, an improvement fee or a combination thereof along with a compliance fee that takes into account direct costs of complying with the provisions of this subchapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures; which are assessed or collected at any of the times specified in CCT 52.083. It shall also include that portion of a water or sanitary sewer system connection charge that is greater than the amount necessary to reimburse the city facilities. **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. 1272, passed 12-19-2012)

CCT 52.078 SYSTEM DEVELOPMENT CHARGES ESTABLISHED.

(A) System development charges for each type of capital improvements may be proposed by the City Manager and shall be established and may be revised by resolution of the City Council.

(B) Unless otherwise exempted by the provisions of this subchapter or other local or state laws, a system development charge is hereby imposed upon all development within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the water, sanitary sewer, drainage and flood control, transportation or parks and recreation facilities of the city. (Ord. 1272, passed 12-19-2012)

CCT 52.079 METHODOLOGY.

(A) The methodology used to establish the reimbursement fee shall, where applicable, be based on ratemaking principles employed to finance publicly-owned capital improvements, prior contributions by then-existing users, gifts or grants from federal or state government or private persons, the value of unused capacity available to future system users or the cost of the existing facilities, and other relevant factors identified by the City Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities and shall be available for public inspection.

(B) The methodology used to establish the improvement fee shall, where applicable, demonstrate consideration of the projected cost of capital improvements identified in the plan and list adopted pursuant to CCT 52.082 that are needed to increase the capacity of the systems to which the fee is related and for which the need for increased system capacity will be required to serve the demands placed on the system by future users. Improvement fees shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.

(C) The methodology shall also provide for a credit as authorized in CCT 52.085.

(D) The methodology shall also provide for periodic indexing of system development charges for inflation, as long as the index used is:

(1) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;

(2) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and

(3) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.

(E) Except when authorized in methodology adopted under division (C) of this section, the fees required by this code which are 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 are separate from and in addition to the system development charge and shall not be used as a credit against such charge.

(F) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the City Council.

(G) After the effective date of this subchapter, the city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge, and the methodology supporting the adoption or amendment shall be available at least 60 days prior to the first hearing to adopt or amend. The failure of a person on the list to receive a notice that was mailed shall not invalidate the city's subsequent

action. The city may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the city must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
(Ord. 1272, passed 12-19-2012)

CCT 52.080 AUTHORIZED EXPENDITURES.

(A) Reimbursement fees shall be applied only to capital improvements (and not operating expenses) associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(B) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for the 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 the need for increased capacity to provide service for future users. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to CCT 52.082.

(C) Notwithstanding divisions (A) and (B) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this subchapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.
(Ord. 1272, passed 12-19-2012)

CCT 52.081 EXPENDITURE RESTRICTIONS.

System development charges shall not be expended for:

(A) Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or

(B) Costs of the operation or routine maintenance of capital improvements.
(Ord. 1272, passed 12-19-2012)

CCT 52.082 IMPROVEMENT PLAN.

Prior to the establishment of a system development charge, the City Council shall adopt a plan that:

(A) Lists the capital improvements that the City Council intends to fund in whole or in part with improvement fee revenues;

(B) Lists the estimated cost and percentage of costs eligible to be funded with revenues from the improvement fee for each improvement; and

(C) Describes the process for modifying the plan. If a system development charge will be increased by a proposed modification of the list to include a capacity increasing capital improvement, the city shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under CCT 52.079. The city shall hold a public hearing if a written request for a hearing on the proposed modification is received within seven days of the date the proposed modification is scheduled for adoption. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge methodology if the change in amount is based on a change in cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to CCT 52.082 or the periodic application of the Construction Cost Index published by the Engineering News Record and is incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution, or order.

(Ord. 1272, passed 12-19-2012)

CCT 52.083 COLLECTION OF CHARGE.

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

(1) A building or construction permit of any kind, including any permit or permits issued in connection with the set-up or installation of any trailer, mobile or manufactured home;

(2) A development permit;

(3) A development permit for development not requiring the issuance of a building permit;

(4) A permit to connect to the water system;

(5) A permit to connect to the sanitary sewer system;

(6) A permit to connect to the drainage and flood control system; or

(7) A permit to connect to the transportation system.

(B) If development is commenced or connection is made to the water, sanitary sewer, drainage and flood control or transportation systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

(C) The City Manager or his or her designee shall collect the applicable system development charge from the person responsible for or receiving the benefit of the development in accordance with division (A) above. The City Manager or his or her designee shall not issue such permit or allow such connection until the charge has been paid in full, or unless an exemption is granted pursuant to CCT 52.084, or unless arrangements for payment of the charge, under such terms as the City Manager deems reasonable, have been made, pursuant to division (D), which follows.

(D) The obligation to pay the unpaid system development charge and interest thereon shall be secured by property, bond, deposits, letter of credit or other security acceptable to the City Manager. The net value of security accepted, excluding liens and encumbrances thereon, must be at least double the amount of the system development charge secured thereby.

(E) If the system development charge is not paid upon issuance of the applicable permit, and the applicant chooses to pay the charge in installments and secure the obligation with security acceptable under division (D) above, then, there shall be added to the amount owing the following:

(1) Interest on the obligation at the rate established by the City Council for all unpaid assessments;

(2) All costs associated with processing the particular form of security, such as title insurance, escrow fees, recording costs, collection escrow costs and/or any other expense associated with the city accepting such security;

(3) Any and all costs, as determined by the City Manager or his designee, incurred in establishing payment schedules and administering the collections process;

(4) When the charge is secured by bond pursuant to O.R.S. 223.205 through 223.295, any and all costs associated with administering the bond assessment program and issuing the bonds, as determined by the City Manager or his or her designee;

(5) The intent of this division (E) is to recognize that the payment of a system development charge by installments increases the administrative expense to the city. It is the intent of this division to shift that added expense to the applicant, so that the city will not lose system development charge revenue by accepting installment payments on such charges. Subject to the provisions of this division (E), all costs added to the system development charge will be determined by the City Manager.

(F) No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid or the installment payment method has been applied for and approved. (Ord. 1272, passed 12-19-2012)

CCT 52.084 EXEMPTIONS.

(A) The following are exempt from system development charges:

(1) Structures and uses established and legally existing on or before the effective date of this subchapter are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this subchapter upon the receipt of a permit to connect to the water or sewer system.

(2) Additions to single-family dwellings that do not constitute the addition of a dwelling unit. Dwelling unit means any building or portion thereof which contains living facilities, including provisions

for sleeping, eating, cooking and sanitation;

(3) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the system to which the system development charge applies;

(B) Any enlargement or change and any new connection or utilization of the system to which a system development charge applies shall not be exempt.
(Ord. 1272, passed 12-19-2012)

CCT 52.085 CREDITS.

(A) A system development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given in an amount equal to the existing system development charge as applied to the pre-existing use. The credit so computed shall not exceed the calculated system development charge. No refund shall be made on account of such credit.

(B) An improvement fee credit shall be given for the cost of a qualified public improvement associated with a development, subject to the following:

(1) Such credit shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements under CCT 52.077 may be granted only for the cost of that portion of such improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development property or project. The applicant shall have the burden of demonstrating that a particular improvement qualifies as qualified public improvement.

(2) 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, if any.

(3) Credits shall be used within ten years from the date the credit is given.

(4) Credit shall not be transferable from one development to another or from one type of capital improvement to another.
(Ord. 1272, passed 12-19-2012)

CCT 52.086 SEGREGATION AND USE OF REVENUE.

(A) All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in CCT 52.080.

(B) The City Manager or his or her designee shall provide the City Council with an annual

accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded, either in whole or in part, from each account.

(Ord. 1272, passed 12-19-2012)

CCT 52.087 APPEAL PROCEDURE.

(A) A person aggrieved by a decision required or permitted to be made by the City Manager or his or her designee under this subchapter or a person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the City Council by filing a written request with the City Manager describing with particularity the decision of the City Manager or his designee or the expenditure from which the person appeals.

(B) An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision required or permitted to be made by the City Manager must be filed within ten days of the date of the decision.

(C) The City Council shall determine whether the City Manager's decision or the expenditure is in accordance with this chapter and the provisions of O.R.S. 223.297 to 223.314 and may affirm, modify or overrule the decision. If the City Council determines that there has been an improper expenditure of system development charge revenues, the City Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

(D) A legal action challenging the methodology adopted by the City Council pursuant to CCT 52.079 shall not be filed later than 60 days after adoption, and shall be contested according to the procedure set forth in O.R.S. 34.010 to 34.100, and not otherwise.

(Ord. 1272, passed 12-19-2012)

CCT 52.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to CCT 10.99.

(B) (1) Any person, firm or corporation violating any of the provisions of CCT 52.015 through 52.020 and 52.050 through 52.060, excluding CCT 52.018(A), upon conviction thereof, shall be punished by a fine of not less than \$50, nor more than \$500. Each person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of these sections is committed or continued by the person, firm or corporation, and shall be punished accordingly.

(2) Any person, firm or corporation shown to be in violation of CCT 52.018(A), by smoke testing, TV or pressure tests of any service lateral, shall be notified by the city by personal service or by certified mail, return receipt requested, and given 30 days to correct the defects in the service lateral. If,

after 30 days of the notification, a correction of the defects has not been made, then the sewer rates for the property served by the lateral shall be doubled. For each subsequent 30-day period within which correction of defects is not made, the sewer service rates for the property served by the defective lateral shall again be doubled to offset the person's, firm's or corporation's excessive use of the city's collection system and disposal plant capacities.

(1977 Code, ' 3-6)

(C) Any person, firm or corporation violating any of the provisions of CCT 52.015 through 52.020, 52.035 through 52.039 or 52.050 through 52.060, shall upon conviction thereof be punished by a fine of not less than \$50 nor more than \$500. Each person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of these sections is committed or continued by the person, firm or corporation, and shall be punished accordingly.

(1977 Code, ' 3-7)

(Ord. 926, passed 8-7-1978; Ord. 959, passed 7-16-1979; Ord. 969, passed 3-17-1980; Ord. 1030, passed 4-18-1983; Ord. 1047, passed 4-2-1984)

CHAPTER 53: DESIGN STANDARDS

Section

Public Works Design Standards

53.01 Short title and authority.

Appendix A

PUBLIC WORKS DESIGN STANDARDS

CCT 53.01 SHORT TITLE AND AUTHORITY.

This subchapter shall be known as the “City of Tillamook Public Works Design Standards” (hereafter “this subchapter”). This chapter has been adopted to provide clear and concise information to contractors, developers and engineers providing services within the City of Tillamook. (Ord. 1298, passed 1-5-2015)

APPENDIX A: PUBLIC WORKS DESIGN STANDARDS

The Public Works Design Standards of the city, is hereby adopted by reference as if set out in full herein. Copies are available through city offices. (Ord. 1298, passed 1-5-2015)