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Chapter 21.04

DEFINITIONS

(New Title substituted by Ordinance No.
173433, effective June 2, 1999.)

Sections:

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21.04.030	Backflow Assembly Installation Requirements.
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21.04.190	Volume Rates.

21.04.010 Administrator.

For the purposes of this Code, Administrator refers to the person in charge of the Bureau of Water Works, or his or her designee.

21.04.020 Applicant.

The person, persons, association, corporation, or governmental agency applying for water service.

21.04.030 Backflow Assembly Installation Requirements.

(Amended by Ordinance No. 180120, effective June 9, 2006.) Standards developed by the Bureau, consistent with the administrative rules of the State of Oregon, which guide the approval of backflow prevention assembly installation.

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21.04.040 Backflow Prevention Assembly.

(Amended by Ordinance No. 180120, effective June 9, 2006.) An approved assembly which prevents water that has been delivered to a customer's premises from flowing back into the City water distribution system (premise isolation) or from reversal of flow within premise piping (point of hazard isolation).

21.04.050 Billing Period.

The time between two consecutive meter reading dates or such other time used for billing purposes.

21.04.060 Bureau.

The Bureau of Water Works (or Water Bureau), being the official agency of the City of Portland charged with responsibility of furnishing water supply to the City and administering the sale of water outside the City.

21.04.070 Chief Engineer.

The Chief Engineer is a Licensed Professional Engineer in charge of the Bureau engineering staff. The Chief Engineer is responsible for establishing, maintaining, and enforcing engineering and technical standards for design and construction of the water system.

21.04.080 Commissioner-In-Charge.

The elected member of the Portland City Council appointed by the Mayor to supervise and control the affairs and property of the Bureau, as authorized in Chapter 2 of The Charter of the City of Portland.

21.04.090 Customer.

Any person, persons, association, corporation, or governmental agency supplied or entitled to be supplied with water service by the Bureau in accordance with established rates and charges.

21.04.100 Distribution Mains.

Water pipelines located in streets, public ways, or private rights of way or easements, exclusive of service connections, which are used to convey water to the general public for customer service and fire protection.

21.04.110 Main Extension.

The extension of water distribution mains beyond previously existing facilities.

21.04.120 Outside City Distributor.

Any water district, city, water company, association, or other agency supplying water furnished by the City of Portland to customers outside the Portland city limits.

21.04.130 Premises.

Integrated land area including improvements thereon undivided by public thoroughfares and under single or common ownership where all parts of the premises are operated under the same management.

21.04.140 Rates.

The rates or amounts fixed by the annual water rate ordinance of the Portland City Council to be charged for water service supplied by the Bureau to its customers.

21.04.150 Service Branch.

An unused service pipe from the distribution main to the future meter location.

21.04.160 Service Connection.

The pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and to the property line. Where the water service meter is on private property, service connection is the pipe or tubing, fittings, and valves necessary to conduct water from the distribution main to and through the meter and the angle meter coupling on service connections of 1 inch or less and through the downstream meter valve on service connections of more than 1 inch.

21.04.170 Service Charge (Customer Charge).

The daily fixed charge based on meter size. The charge, under special conditions, such as fire line service, shall be based on the size of the service connection.

21.04.180 Standby Service Charge.

(Repealed by Ordinance No. 179978, effective April 7, 2006.)

21.04.190 System Development Charge.

A charge imposed upon each new service connection and on increases in the size of old connections within the City limits.

21.04.200 Volume Rates.

A variable charge which appears on the water bill based on the amount of water used per 100 cubic feet, or fraction thereof.

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EXTENSION OF WATER MAINS

Sections:

- 21.08.010 Location of Mains.
- 21.08.020 Distribution Main Extensions Inside City.
- 21.08.030 Fair Share Reimbursement.
- 21.08.040 Extending Distribution Mains Outside the City.
- 21.08.050 Adequate Mains Before Street Improvement.
- 21.08.060 Installation of Adequate Distribution Mains Inside the City.
- 21.08.070 Council Authorization for Laying Water Mains.

21.08.010 Location of Mains.

Water mains are to be installed within public right-of-ways. The Chief Engineer and the Administrator may authorize construction of a public main within a private tract of land dedicated and utilized as a private street. The City shall be granted an access easement of sufficient width, as determined by the Chief Engineer. The easement agreement shall be of a form approved by the Chief Engineer, and it shall allow 24-hour unobstructed access to operate and maintain the public water system within the private street. The Chief Engineer and the Administrator shall determine the necessity to cross private land with a public main.

Water main extensions shall be installed a minimum of 5 feet past the closest property line of the parcel to be served.

The applicant is obligated to pay for the cost of the water main extension that will provide adequate flow to the site, as determined by the Chief Engineer. The Bureau will charge the applicant for the required size of main extension and for the least expensive route for the main to reach the desired site. The Bureau retains the right to use a larger main or an alternative route for the main, and the Bureau shall pay for all costs in excess of that required to meet the requirements of the applicant.

21.08.020 Distribution Main Extensions Inside City.

An applicant for a new water main or a main extension shall pay the full cost of the water main or the main extension, except for the purposes of improving an inadequate main as noted in Section 21.08.060 "Installation of Adequate Distribution Mains Inside the City." Bureau staff will prepare an estimated cost prior to construction.

The Bureau shall accept a deposit of 20% of the estimated cost for preliminary engineering work, the balance due prior to actual construction. If the actual cost of the main or main extension and the laying thereof is greater than the estimated cost, the person or persons applying for the installation of the main or main extension shall pay the difference to the Bureau. Payment shall be deposited to the Water Operating Fund and transferred to the Water Construction Fund. If the actual cost is less than the estimated

cost, the excess shall be refunded to the person or persons who have paid for such main or main extension. In determining actual costs, allowance shall be made for overhead expenses in accordance with the provisions of the City's finance regulations, as found in City Code. Determination of amounts to be paid or refunded shall be made by the Administrator, subject to appeal to the City Council, and the decision of the Council shall be final.

When the petitioner requests a set price for each installation the Bureau may establish a price based on the estimated cost. In no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

In all cases the size of mains and main extensions and the specifications for laying the same shall be determined by the Chief Engineer, and water mains and main extensions within the City shall be installed solely by the City, except as otherwise provided herein and shall be the property of the City.

Water mains may be installed in private streets subject to prior approval of the Administrator and Chief Engineer and subject to all conditions contained in this Title. Costs of all such mains and appurtenances in private streets shall be borne by the applicant. The developer of a new residential subdivision within the City may petition the Administrator for permission to construct water mains and appurtenances within the limits of the subdivision.

21.08.030 Fair Share Reimbursement.

An applicant who pays for all or a portion of a new main may recover some of the cost of installation from other applicants who seek service from that main. To qualify for reimbursement, the main must be within the City of Portland, it must have been installed within 10 years of the date of application for service, and the property for which service is sought must not have been owned by the party who paid for the main.

When reimbursement is warranted, the Bureau will collect a pro rata share of the cost of the main installation and make payment to the individual who paid for the main. Payment shall be based on the initial cost of construction, divided by the total length of the main, in feet. That per-foot cost will then be multiplied by the frontage length of the service applicant's property, in feet, times 50 % [(cost of construction divided by total length) X frontage X 0.50 = payment]. The payment shall be reduced for depreciation at the rate of 2 1/2 % per year, computed from the date of the main installation to the date of application for service. If the original applicant for the main did not pay the entire cost of installation, then the Bureau will reimburse that party in direct proportion to the percentage he or she paid towards the initial cost.

21.08.040 Extending Distribution Mains Outside the City

Any person desiring a main extension outside the City may make written application for construction of a water main. The Chief Engineer and the Administrator may approve of the main extension if it does not unreasonably impair water supply or pressure to existing services, whether inside or outside the City, and cannot reasonably be served through any other supplier.

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The Chief Engineer and the Administrator shall determine if the water main extension is to be designed and constructed by the City, or if permission is to be granted for private design and construction of the main. If privately constructed, the work shall conform to Water Bureau specifications. Upon Bureau inspection and acceptance of the new water system, the Bureau shall make connection to the existing water system. After acceptance by the City, the water main extension shall become the property of the City.

If the Bureau is to lay the main extension, the applicant shall pay to the Bureau the estimated cost thereof prior to construction. The cost includes the cost of any bond or other security required by any subdivision of government having jurisdiction over the location of the main extension. If the actual cost, including overhead expenses computed in accordance with the provisions of the finance regulations of City Code exceeds the amount prepaid, the applicant shall pay the difference to the Bureau. If the actual cost computed as herein prescribed is less than the amount prepaid by the applicant, the difference shall be refunded. When the owner or agent requests a set price for such installation, the Bureau shall establish a price based on the estimated cost and in no case after a set price has been established shall refunds or additional charges for the installation be made except in those cases where changes have been made at the request of the applicant.

The City shall not be responsible for any change or enlargement of the main or main extension outside the City, and shall not be responsible for any portion of the cost of relaying or changing the main or main extension because of subsequent improvement of any public work.

Application for connection of property outside the City to City water main or main extension shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacies, whether attributable to prior or future connections or extensions, and shall be deemed a covenant that the applicant will comply with all provisions of this Title and the rules and regulations of the Bureau and must have prior approval of the Portland Metropolitan Area Local Government Boundary Commission.

21.08.050 Adequate Mains Before Street Improvement.

The Chief Engineer and the Administrator may require that adequate water mains be installed in accordance with the provisions of this Title prior to street improvement.

21.08.060 Installation of Adequate Distribution Mains Inside the City.

If a petition for a single new residential service of 1 inch or smaller is not granted due to inadequate capacity of a 4 inch main or smaller, the applicant may wait until the main is enlarged by the City. If petitioner wants the main enlarged sooner than the City's timetable the petitioner may request that the City adjust the timetable and replace the main without delay. The Administrator together with the Chief Engineer will review this request. If the main replacement request is confirmed the petitioner shall pay a portion of the cost of enlarging the main. The Bureau will pay all remaining costs. The portion of

the main paid by the City is sixty-five percent (65%) unless that figure is changed by the annual water rate ordinance. All requirements of Section 21.08.030 "Fair Share Reimbursement" will apply except that the full cost of the main will not be charged to the petitioner.

21.08.070 Council Authorization for Laying Water Mains.

The Council or its administrative officers may cause to be laid or installed at City expense, whatever pipelines, extensions, enlargements at the time of initial main installation or subsequently, interconnections, pumps, tanks, reservoirs, dams, works, and appurtenances which are found by the Administrator and the Commissioner-In-Charge to be necessary, advantageous, or convenient. This shall not be deemed to confer any right or privilege upon any person or premises to have a water main laid at sole City expense. The portion of the cost of any main and the laying thereof installed to serve residential premises or area only, and laid after August 1, 1957, which is in excess of the cost of a 6 inch ductile iron main and the laying thereof, shall be deemed allocable to water supply. Such allocation shall be paid from the Water Construction Fund at City expense except where the Fire Bureau requires larger flows for fire protection requirements, those costs shall be at the applicant's expense.

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WATER SERVICES

Sections:

- 21.12.010 Service to Property Adjacent to Water Main.
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- 21.12.040 Cancellation of Application for Service.
- 21.12.050 Service Branch Installation and Removal.
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- 21.12.070 Separate Service.
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- 21.12.170 Use of Private Water and City Water.
- 21.12.180 Disconnection of Service When Charges Have Not Been Paid.
- 21.12.190 Reactivation of Abandoned Service.
- 21.12.200 Leaking or Unused Services.
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- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.

21.12.010 Service to Property Adjacent to Water Main.

Property within the City and adjacent to a City water main may be served subject to the provisions of this Code, and the annual water rate ordinance.

To obtain water service, the service connection must be along the frontage of the property to be served and be adjacent to a public or private street in which there is a public water main. With the exceptions noted in this section, water service shall not be provided by means of an easement. With the approval of the Chief Engineer, water service may be provided from a main within an existing easement. The service must be within the easement and must be readily accessible for maintenance and meter reading. The Chief Engineer and the Administrator may approve of a water service within an easement across a separate parcel of land if the parcel the applicant desires to serve has no frontage along a public right-of-way. The applicant must provide a copy of the recorded easement at the time of application for service.

If application is made for service from a water main less than 6 inches in diameter, the connection shall be deemed temporary unless such main was designated as a permanent main, however in any case, such connection shall not entitle the person or premises to have said main replaced with a larger main at City expense. The application for service from a 4-inch main or smaller shall be deemed a waiver of any deficiency of supply, pressure, or any other inadequacy, whether attributable to prior or future connections or extensions. The application shall be deemed a covenant that the applicant will comply with all the provisions of this Title and the rules and regulations of the Bureau.

Property outside the City, but adjacent to a City main, may be served with the approval of the Chief Engineer and the Administrator, subject to all the provisions of this section. This service shall be a special contract service and not provided by the City as a common utility service, as described in Section 21.28.020 "Water Supply to Premises Outside the City of Portland." The quantity of water supplied by this service may be reduced or the

service entirely discontinued at any time when the Portland City Council finds such action necessary in order to provide sufficient service to the inhabitants within the City limits. The City shall provide at least 60 days' notice in writing before service is discontinued. Notice delivered at the premises and at the last known address of the owner or applicant shall be sufficient. The owner may discontinue service by notifying the Bureau at least one day prior to having the service discontinued, but shall be responsible for all water charges at the premises until the Bureau receives the notice in writing.

21.12.020 Size of Service Connection.

Whenever an application for water service is received, the Administrator or the Chief Engineer shall have authority to reject such application if in the judgment of the Chief Engineer, the service and meter size applied for is expected to be less than or greater than the size necessary for estimated use by the premises of the applicant. In such event, the Administrator or the Chief Engineer shall specify the appropriate size of service line and size and type of meter. The service size as determined by the Chief Engineer shall not be a warranty of sufficiency for pressure or volume of water to be afforded the premises. No service connection less than 3/4-inch in size shall be installed. The installation of any required backflow prevention assembly may cause the pressure and or volume of water to be less than the distribution system is able to supply through a specific service. It is the responsibility of the applicant to demonstrate that he or she has calculated the effect of installing required backflow prevention assemblies.

21.12.030 Application for Installation or Removal of Water Service.

The owner or authorized agent shall make written application for permits to connect with or disconnect premises from the City water system on forms provided by the Bureau in which the applicant shall specify the location and the use for which the service is required, and shall agree to abide by the rules and regulations of the Bureau.

The applicant for all services 1 inch and larger shall submit the water flow requirements at the time of request. Applicants for smaller services shall provide water flow requirements when requested. The applicant for water service to commercial or industrial development shall submit a site utility plan at the time of the request that indicates the size and type of service required and the distance of the service to the nearest property line.

An application for a permit to connect premises with the City water system for service to a new building or structure shall not be accepted for filing unless a building permit has been issued for such building or structure as provided in the building regulations of the City. No permit shall be issued unless the conditions set forth in this Title relating to main extensions have been met, if applicable. Any permit issued to connect premises with the City water main shall not entitle the permittee to a connection to the main until it is laid adjacent to the premises of the owner. Acceptance of fee for the permit shall not waive any of the conditions set forth in this Title nor grant specific right of connection. Any service connection made outside the City limits must receive prior approval of the Portland Metropolitan Area Government Boundary Commission.

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21.12.040 Cancellation of Application for Service.

An applicant may request in writing that an application for service be canceled up to the time that the service is installed. The Bureau will refund the application fee, except for any portion of the fee needed to cover Bureau costs for partial processing of the application or for actual work done on partial installation. The Bureau shall retain costs for any work already performed plus a 15 % fee for handling and overhead as a service charge. A service that has not been installed within 6 months of the date of application, at the direction of the applicant, shall be canceled and the fee less the accrued costs shall be returned to the applicant.

21.12.050 Service Branch Installation and Removal.

Service branches may be installed by the Bureau, or by a developer with the prior written approval of the Administrator or Chief Engineer, when the Administrator or Chief Engineer determines that such installation will benefit the City. See Section 21.16.160 "Service Installation Fees." If an application is not made for service within 5 years of branch installation, the Bureau may disconnect the service branch at the main. If service is requested after 5 years from date of installation, and has not previously been removed, the Water Bureau shall determine the condition of the service branch. The applicant shall pay for the cost of renewal of the service branch, if required.

21.12.060 New Service Where Change in Size or Relocation is Desired.

In the event a service of a smaller or larger size is desired and the Chief Engineer concurs that the requested size is appropriate, a new service will be installed and the charge will be as provided in the annual rate ordinance. The old service will be removed without charge.

If the Bureau has identified a service as being defective, a new service of the same or smaller size may be substituted at no charge to the applicant at the time the defective service is being replaced provided there is written authorization. However, if application for a larger service is received, the applicant will pay the difference between the two sizes, and credit for the System Development Charge (see Section 21.16.170 "System Development Charge") will be applied for cost of the meter for the service being removed as herein provided. If service is relocated or changed in size, proper backflow protection must be installed as outlined in the "Backflow Assembly Installation Requirements." The cost of backflow protection shall be the responsibility of the property owner.

21.12.070 Separate Service.

Unless otherwise provided in this section, a separate service shall be required to supply water to each separate parcel of land and to each house or building under separate ownership upon the same parcel. A parcel is considered separate when partitioned by a different ownership, street, or public way.

Unless otherwise provided hereunder, a separate service shall be required for each house or building even if under one ownership and on the same lot or parcel of land. A single

service may be provided for multiple units under single ownership. A single service may be approved by the Administrator for multiple units which are individually owned when there is a contract with the Bureau specifying who shall be responsible for all water bills and charges. Otherwise, multiple units which are individually owned must have a separate service to each unit.

The Bureau may limit the number of houses or buildings or the area of land under one ownership to be supplied by one service connection or meter.

Two or more houses or buildings under one ownership and on the same lot or parcel of land may be supplied through a single service meter, if approved by the Administrator. If the property on which the houses or buildings are located is divided by sale, a separate water service shall be obtained for each ownership prior to the sale.

Notwithstanding terms to the contrary in this section, a property owner may request, and the Administrator may authorize, continuation of water service, through existing lines, to the owners of property divided by sale, if the divided parcels will continue to share use of existing water lines and mains, as they did prior to the sale and which were in compliance with the provisions of Title 21 at the time of the sale. Authorization will not be granted if there is a change in size or location of any of the existing water services.

In addition, the party requesting exemption from the standard requirement, described above, must provide the Administrator with a document that has been recorded, the purpose of which is to authorize all users of the common lines and mains to access those lines as necessary, for installation, maintenance and repair of the common system, said rights to run with the land.

The service connection to a parcel of land shall not be used to supply an adjoining parcel of a different owner, or to supply a separate parcel of the same owner for which proper application for service has not been made. When property provided with a service is subdivided, the service connection shall be considered as supplying the parcel of land which it directly enters. See Section 21.12.010 "Service to Property Adjacent to Water Main" for allowed location of water service.

21.12.080 Service to Property Partially Outside City.

Where service is requested for a property partially inside and partially outside of the City limits, service may be provided if the principal structure is on the portion of the property inside the City limits, and within the urban growth boundary of the City. Should other structures be in said portion of the property outside the City, the Bureau may provide service through separate services and meters and shall charge rates in accordance with outside City service. Such services shall be installed at the expense of the owner of the premises.

21.12.090 Permit for Temporary Service.

(Amended by Ordinance 180120, effective June 9, 2006.) The Water Bureau may issue a permit for a temporary water service to a site that has no long-term need of a permanent water service. Use of a temporary service shall not exceed one (1) year from the date of installation if it is a conventional metered service and ninety (90) days if supply is from a fire hydrant. The permittee desiring temporary service shall make application to the

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Water Bureau and shall declare the intended purpose of the service and shall specify the location of the service, the length of time needed, the volume of water required and the peak flow rate anticipated.

If temporary service is allowed, the Water Bureau will install a service at the expense of the permittee, or allow the temporary use of a fire hydrant as a source of supply. If the Water Bureau installs a temporary service, the permittee shall utilize it as if it were a normal permanent service. If supply is from a fire hydrant, the permittee must continuously follow the established rules and regulations governing the use of a fire hydrant, as detailed in Section 21.24.020 "Fire Hydrants", as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. The permittee must meter or accurately gauge usage of water from a fire hydrant and report that usage to the Water Bureau. The permittee must not use water from another fire hydrant than specified in the permit without prior written approval of the Water Bureau. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose.

All temporary water services are required to have a minimum of a double check valve assembly installed for backflow protection. The backflow assembly must be installed at the service connection to the property. All costs associated with backflow prevention assemblies will be the responsibility of the owner or applicant.

21.12.100 Annual Fire Hydrant Permit.

The Water Bureau may, upon application, issue a permit for the use of fire hydrants as a source of water for commercial enterprises or governmental agencies that have continuous need of water at various locations throughout the City. Sufficient need must be shown to preclude obtaining water from a single permanent service. The permittee shall use water exclusively for the stated purpose of the permit and shall not allow others to utilize the permit to obtain water for any other purpose. Annual fire hydrant permits are renewed for the calendar year, beginning in January. The cost for an annual permit not issued in January shall be prorated. The cost for an annual permit is set in the annual water rate ordinance.

The permittee, and all employees who obtain water from fire hydrants, must continuously follow the rules and regulations governing the use of fire hydrants, as detailed in Section 21.24.020 "Fire Hydrants," as well as all city, state and federal rules, regulations, and guidelines governing the proper use and disposal of water. All water trucks used by the permittee must be inspected for proper backflow protection equipment every three (3) years by a Water Bureau Water Quality Inspector.

21.12.110 Installation of Service Pipes from the Main to the Property Line.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau shall perform all work for installation of a water service within the existing public right-of-way or within an easement except as detailed in Section 21.12.130 "Service Maintenance Responsibility." The Chief Engineer and the Administrator may allow a developer to install all or part of a water service in a subdivision currently under construction. No work by others shall occur on a water service if the Water Bureau has

accepted the main for operation and maintenance. Installation and maintenance of the water system on private property is regulated by Title 25, Plumbing Regulations, as administered by the Bureau of Development Services. Responsibilities for maintaining the water service are found in Section 21.12.130 "Service and Maintenance Responsibility."

21.12.120 Connections to the Water Service.

No connections to the water service shall be made by the customer or his or her agent between the main and the property line if in a public street, or the easement line if in a private street or an easement. No hose connections for domestic use shall be allowed within the public or private street where the hose connections are accessible to the public.

21.12.130 Service and Maintenance Responsibility.

This section clarifies whether it is the responsibility of the Bureau or the customer to maintain, repair, or replace sections of the water supply system. Responsibilities for installation are found in Section 21.12.110 "Installation of Service Pipes from the Main to the Property Line."

A. For domestic and irrigation services:

- 1.** If the connection is 1 inch or smaller, the Bureau is responsible for that section that is through the meter and the angle meter coupling. The customer is responsible for that portion downstream from the angle meter coupling.
- 2.** If the connection is larger than 1 inch, the Bureau is responsible for that section that is through the meter and the meter valve. The customer is responsible for that portion downstream from the meter valve.

B. For fire service, the Bureau is responsible for that section that is from the main through a valve between the curb and property line. The customer is responsible for the that portion downstream from the valve between the curb and property line. The customer is responsible for the repair of any facilities within the public right-of-way that are damaged as a part of his or her maintenance or repair work.

When a service pipe at the proper grade is damaged or destroyed by contractors or others in the performance of street work or where service pipes are damaged by electrolysis, the person, contractor, or company responsible for such damage or destruction shall be billed by the Bureau of Water Works for the cost of repairing or replacing such pipes on the basis of the cost plus overhead, as provided in the finance regulations of Title 5 of the City Code.

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21.12.140 Water Pressure at Service.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Water Bureau's goal is to provide water pressure to the property line in the range of 40 pounds per square inch (psi) to 110 psi. The State of Oregon Health Division rules dictate that a water service must provide a minimum of 20 psi at the meter. Pumps, elevated reservoirs and tanks and pressure reducing valves are utilized to provide pressure in the range of 40 psi to 110 psi where possible or practical. The Bureau of Development Services, Plumbing Division, through Title 25 of the City Code, regulates pressure on private property and requires a pressure reducing device for on-site domestic water systems that receive water at greater than 80 psi.

If the pressure to the service is within the range of 20 psi to 40 psi, the customer may choose to install a booster pump system on the premise to improve the working of the private plumbing system. The customer is responsible for the installation, operation and maintenance of any pressure boosting system. The addition of a booster pump will require an appropriate backflow prevention assembly be installed on the water service, on private property, and directly adjacent to the property line.

The Water Bureau does not guarantee that water can be provided continuously at a particular pressure or rate of flow. Varying demands on the system and the requirement to change operations affect the flow and pressure available to the service.

21.12.150 Damage through Pipes and Fixtures.

The Bureau of Water Works shall in no case be liable for damages occasioned by water running from open or faulty fixtures or pipes installed by the customer or on the customer's property.

21.12.160 Bureau Authority to Disconnect a Customer Due to Potential Damage to Water System or To Another Customer's Facility.

The Bureau may disconnect a customer if it determines that operation of his or her system or facilities is causing pressure surges and/or creating other hazards that are detrimental to operating the City water system or the water system or facilities of another customer.

If the Bureau determines that such operations present a significant hazard, the customer may be disconnected without prior notice. The Bureau will notify the customer of the disconnection as soon as is reasonably possible and explain the necessity of the action taken. Before the water service is reconnected, the customer must provide the Bureau assurance that changes have been made that will preclude a recurrence of the hazardous condition.

Where a hazard exists, but potential damage is not judged to be imminent, the Bureau shall give the customer prior notice of the intent to disconnect. The Bureau shall state the reason for the disconnection, and offer an opportunity to be heard on why the customer's operation is not detrimental or hazardous.

21.12.170 Use of Private Water and City Water.

Owners of buildings desiring to use both the City water supply and a supply of water other than that furnished by the Bureau may obtain water service only upon the following conditions. An approved backflow prevention assembly must be installed on the service connection to the premises as outlined in the Bureau's "Backflow Assembly Installation Requirements." If water from a supply other than that provided by the Bureau is found without proper backflow protection the City water supply to the premises shall be immediately shut off with or without notice. In case of such discontinuance, service shall not be reestablished until satisfactory proof is furnished that the cross connection, or potential cross connection has been completely and permanently eliminated or that an approved backflow prevention assembly commensurate to the degree of hazard has been installed on the service connection to the premises, and the assembly has been inspected, tested, and registered with the Bureau.

21.12.180 Disconnection of Service When Charges Have Not Been Paid.

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Bureau may disconnect a water service at the meter when monthly charges are not paid. If a monthly service charge is not paid for a period of one (1) year, the Bureau will consider the service abandoned and may disconnect the service at the main. The Bureau may disconnect a leaking service at the main sooner than 1 year if payment has not been made.

21.12.190 Reactivation of Abandoned Service.

(Amended by Ordinance No. 179978 and 180120, effective June 9, 2006.) A customer may apply to the Bureau to reactivate an abandoned service where the meter has not been removed pursuant to Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid." Existing pipe and connections may be used if the Bureau determines them to be in sound condition and adequate for the intended use. The Bureau may require installation of a backflow prevention assembly on reactivated services.

The customer shall pay for replacement of the existing piping and/or connection if the piping and/or connection is unfit for use and standby charges have not been continuously paid. The customer shall pay the full installation fee if the service is desired at a different location than existing or if they desire a service that requires a larger pipe and connection. The customer must pay any charge required to reinstall a meter on the service.

21.12.200 Leaking or Unused Services.

Where there is a leak within the public right-of-way or within a Water Bureau easement between the main and the meter of a domestic service, or between the main and the valve behind the curb of a fire service, the Bureau shall make all repairs free of charge. However, if the leak is on a service for which the service charge, standby charge, or other charges are not being paid, the Bureau will cut out the service at the main. Where a water service pipe has been disconnected from the main, the owner of the premises previously serviced shall obtain a new permit and pay for a new service connection whenever a water service is desired. Services replaced because of leaks shall be renewed

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in the same size as the service removed, subject to the provisions which allow a customer to request a change of service size (see Section 21.12.060 "New Service Where Change in Size or Relocation is Desired.") The Water Bureau may require the installation of an approved backflow prevention assembly when this new service is approved.

21.12.210 Master Metering of More Than One Water Service.

At the Administrator's sole discretion, the Bureau may permit the master metering of more than one water service. In such case, the owners or occupants of the premises served shall designate one of their number who shall, through written agreement with the Bureau, be responsible for the payment of all water charges and the acceptance of service of all water related notices. This person shall be liable for all water related charges until the agreement is terminated or an agreement is established with another party. In the event payment for water charges is not made in full when due, the Bureau may terminate the service pursuant to normal procedures, in spite of the tender of partial payment by any other owner or occupant of the premises so served.

21.12.220 Fire Protection Service.

(Amended by Ordinance No. 180120, effective June 9, 2006.) Water through a fire service shall be used only to extinguish a fire on the inside and the outside of the structure(s) that it serves and to test the fire system. A fire service is specifically not to be used for domestic, maintenance, or irrigation purposes.

The Bureau shall install and maintain a meter for a fire service of less than 2 inch. A fire service 2 inch and larger that supplies only a fire system shall be equipped with a detector metering device that is part of the backflow prevention assembly. This Assembly shall be installed and maintained by the customer. In addition, the Bureau shall install and maintain a metering device on a fire service that has private on-site fire hydrants, hose systems or other appurtenances that would allow the unauthorized use of water through the fire system for purposes other than to extinguish a fire. A service that supplies water for multiple needs, such as for domestic use and for fire suppression, shall be fully metered and shall comply with the requirements of Section 21.12.030 "Application for Installation or Removal of Water Service."

Backflow protection which complies with Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection" is required on all fire services. All costs associated with providing backflow protection are the responsibility of the property owner.

To avoid unauthorized use of a fire protection system the Bureau will require the owner to install an approved full-flow meter under the following conditions:

- A.** The existing detector metering device registers use of water for purposes other than to extinguish a fire or to test the system, or;
- B.** Connections have been added to a system provided with a detector meter or detector double check valve assembly.

When full-flow metering is required because of unauthorized use, the Bureau shall charge the customer for installing the meter, the meter vault, and shall assess a system development charge based on the size of the service. The Bureau policy for additional charges for unauthorized use of water from a fire protection system is established in Section 21.16.200 "Charges for Unauthorized Use of Fire Protection Services."

21.12.230 Permit and Report Required to Do Plumbing Work.

(Amended by Ordinance No. 176955, effective October 9, 2002.) It is unlawful for any plumber or other person to make connections, installations, replacements, extensions, or repairs to any City water service pipe, or to connect one service pipe with another service pipe, or extend a pipe from one building to another building, or to turn water on or off at any premises without having first obtained permission in writing from the Administrator or Chief Engineer. Such changes may require the installation of an approved backflow prevention assembly, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." After the issuance of a permit to a plumber or other person authorized by the plumbing inspector to do plumbing work, the permittee shall make a report in writing to the Plumbing Division of the Bureau of Development Services of all connections, attachments, and extensions made in accordance with the permit within 3 days after completion of work.

21.12.240 Service Location Change.

When the service connection of any premises does not come from the main in front of the premises, the Bureau shall, when a main is laid in front of said premises, after notifying the owner or tenant thereof, provide a service connection to the new main without charge and at the same time, cut the old service connection. The property owner shall be responsible for the building connection to the new service. When services are relocated the Bureau may require installation of backflow protection, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection."

21.12.250 Location of Meters Inside City.

Within the City, the water meter shall be located in or adjacent to street area where the Bureau fixes such location, except where a City water main is already located in an easement upon private property. For service within easements the Bureau may allow location of a water meter on or adjacent to such existing line, if necessary easements for the meter installation are offered to and accepted by the City.

21.12.260 Water Service in Basements within the Public Right-of-Way.

A metered water service installed within a building's basement that extends into the public right-of-way must be enclosed to prevent damage to the building and its contents. The owner of the property served, at the owner's expense, shall fabricate and install a waterproof vault that encloses the entire water service from the wall penetration to the backside of the meter assembly. The vault shall be installed so that the meter can be read and serviced from the sidewalk area above. The vault shall be designed and installed to

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support the meter assembly and the full weight of water that may fill the vault. The vault shall have a gravity drain to the storm sewer. At the owner's expense, the Water Bureau shall furnish a frame and cover for the meter vault, which will be installed by the owner. The vault shall be constructed of material that resists corrosion or be protected by a corrosion resistant coating. The owner shall maintain the vault to keep it free of corrosion and in a clean condition. The owner shall provide a penetration through the outside basement wall for installation of the service and shall seal the opening after installation of the pipe. The owner shall seal all openings of the vault except those leading to the sidewalk area.

Except in cases of new services, the owner of the property together with affected lessees, if any, as an alternative to compliance with this Section, may execute for the benefit of the City an agreement, in a form satisfactory to the City Attorney, (1) waiving any claim for damages for personal injury or property damage against the City and its officers, agents, and employees arising out of non-compliance with the requirements of this Section and (2) defending and holding harmless the City and its officers, agents, and employees against any claim by any person for damages for personal injury or property damage arising out of non-compliance with the requirements of this Section.

21.12.270 Ownership of Meters.

(Amended by Ordinance No. 180120, effective June 9, 2006.) All new services will have meters provided and installed by the Bureau; except sewer meters, commercial, domestic and irrigation submeters, and as provided for fire protection in Section 21.12.220 "Fire Protection Service." The cost of the meters plus installation shall be charged to the customer requesting the new service. The new meters shall be owned by the Bureau. The Bureau shall assume all repair, maintenance, and future replacement responsibilities for the new meters. Where private meters exist, that are used by the Water Bureau for billing purposes, the Bureau shall perform all future repair, maintenance, and replacement work at no charge to the owners. If the private meter is determined to be obsolete, the Bureau shall replace the privately owned meter with a new Bureau-owned meter at no charge to the owner. The Bureau shall assume all responsibility for the cost of future meter repair or replacement. As outside areas are annexed to the City, privately owned meters shall be repaired or replaced on an as-needed basis with new Bureau-owned meters at no expense to the owner. All annexed services will be required to meet the backflow protection requirements, as detailed in Section 21.12.320 "Contamination of the City Water Supply and Requirements for Backflow Protection." All costs of adding backflow protection shall be the responsibility of the property owner.

21.12.280 Damaged Meters Owned by the City.

Whenever a meter owned by the City is damaged by hot water or damaged by the carelessness or negligence of the owner or occupant of the premises, or others, the Bureau will repair the meter and charge the bill against the property served or to the person or persons responsible for the damage. The cost of the repairs shall be as prescribed in the annual water rate ordinance.

21.12.290 Meter Area and Access To Be Clear.

Bureau personnel must have access to read and maintain water meters. It is unlawful to block meter access. It is unlawful for any person to store or maintain any goods, merchandise, material, or refuse, or install equipment over, under, or within 6-feet of any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau. It is unlawful to park a motor vehicle over, upon, or in such a manner as to prevent access to any water meter, gate valve, or other appliance in use on any water meter connection of the Bureau regardless of whether such Bureau property is located on public or private property. Whenever it is necessary to enter a building to read the meter or work on the water connections, a safe passageway must be maintained by the occupant of the premises, free and clear of obstructions from the entrance of the building to the meter. Shrubs and landscaping shall not obstruct reading of the meter. Any obstructions may be trimmed or removed by the Bureau, and the owner or occupant and the premises may be charged as prescribed in the finance regulations, Title 5 of the Portland City Code.

21.12.300 Shut Off Because of Defective Installation of Meters.

Whenever water meters inside the City are found by the Bureau to be without adequate support, or with defective plumbing, or without shut-off equipment necessary to permit meter tests by the Bureau, or where through earth movements or subsidence, pipe bends, or connections have become faulty or are not tight, then the Bureau shall notify the owner to remedy the condition within 10 days from the date of notification. Where the notice has been given specifying the repairs or alterations to be done, then if the repairs or alterations are not completed within the time allowed, the water service shall be shut off until the repairs or alterations are completed. The Administrator may allow additional time for completion of repairs or alterations for extenuating circumstances.

21.12.310 Authority for Testing and Repairing Meters.

The Bureau may test and/or repair any meter on services supplied directly or indirectly by the Bureau at any time without application from the property owner and for this purpose may upon notice temporarily shut off the water. If a meter which is larger than 1 inch on City lines requires repairs, the Bureau shall give notice to the property owner or user and immediately place said meter in good working order. If the meter is not repairable due to wear, obsolescence or parts that are not available, the Bureau will replace the meter in accord with Section 21.12.270 "Ownership of Meters."

21.12.320 Contamination of the City Water Supply and Requirements for Backflow Protection.

(Amended by Ordinance No. 180120, effective June 9, 2006.) It is unlawful for the owner of property or the user of City water to introduce or permit the introduction of pollution or contamination of any kind into the City water supply system.

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- A.** Authority to Require Backflow Protection. Oregon State Administrative Rules Chapter 333 (OAR 333) require water suppliers to "undertake programs for controlling, and eliminating cross-connections." These programs are for the purpose of preventing pollution and contamination resulting from inadequate backflow protection. These State regulations apply to "Community Water Systems" which include the City of Portland's water system. Through this section the Bureau adopts by reference OAR 333. The Bureau's detailed requirements are found in the document entitled "Backflow Assembly Installation Requirements" and is available from the Bureau. Backflow prevention assemblies are approved for use in Oregon by the State of Oregon (see "Approved Backflow Prevention Assembly List" available from the Bureau and the State of Oregon). As required by OAR 333, the Bureau shall require an approved backflow prevention assembly when the Bureau determines that: a complete physical separation from the City water system is not practicable or necessary; adequate inspection for cross-connection cannot be readily made; or there exists a possibility of backflow contamination resulting from special conditions, use, or equipment. The Bureau may require an approved backflow prevention assembly to be installed for new construction, where buildings or structures are remodeled, or where tenant improvements are made.
- B.** Requirements for Testing Assemblies and Maintaining Backflow Protection. All assemblies must be tested immediately after installation or if the assembly is moved or repaired. Assemblies must also be tested at least once a year, on a schedule to be determined by the Bureau, or more frequently as determined necessary by the Bureau to provide adequate backflow protection. Tests shall be performed by a tester who is certified by the State of Oregon. Copies of the test results shall be provided to the water user or the owner of the premises and to the Bureau. Backflow prevention assemblies which are not functioning properly shall be repaired promptly and retested or replaced. The water user or owner of the assembly will be responsible for all associated costs of repair, testing and replacement.
- C.** Authority to Deny or Discontinue Service When Backflow Protection is Inadequate. As required by OAR 333, where the Bureau has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, the Bureau shall deny or discontinue service. The Bureau shall also deny or discontinue service to a premise whenever an assembly is found to be malfunctioning or is not being properly maintained, tested, or repaired. Service shall not be provided or reestablished until adequate and approved backflow protection is installed and/or tested, or the cause of the hazard is otherwise eliminated.

Chapter 21.16

RATES AND CHARGES

Sections:

- 21.16.010 Annual Water Rates.
- 21.16.020 Annual Statement To Be Filed.
- 21.16.030 Water Charged to Premises User.
- 21.12.040 Delinquent Water Bills.
- 21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.
- 21.16.060 Responsibility for Water Charges When Property Changes Ownership.
- 21.16.070 Collection and Work Orders.
- 21.16.080 Dates and Places of Payment.
- 21.16.090 Deposit and Application.
- 21.16.100 Deposit of Money Received.
- 21.16.110 Bureau May Contract for Collection of Revenues.
- 21.16.120 Collections, Adjustments and Refunds.
- 21.16.130 Adjustments on Account of Leaks.
- 21.16.140 Authority to Estimate Bills.
- 21.16.150 Testing Meters.
- 21.16.160 Service Installation Fees.
- 21.16.170 System Development Charge.
- 21.16.180 Standby Service Charge.
- 21.16.190 Charges for Water Used to Extinguish a Fire.
- 21.16.200 Charges for Unauthorized Use of Fire Protection Service.
- 21.16.210 Billing and Collection of Sewer User Charges.
- 21.16.220 Billing and Collection for Others by Contract.

21.16.010 Annual Water Rates.

The Portland City Council approves and sets water rates for each fiscal year that will provide an estimated income to equal expenses and debt service relating to water bonds. (Section 11-105 of the Portland City Charter). The Bureau prepares the proposed annual water rate ordinance and the City Attorney reviews the ordinance. The Bureau files the ordinance with the Auditor not later than May 20 of each year.

21.16.020 Annual Statement To Be Filed.

An annual detailed statement of its income and expenditures shall be made and signed by the Administrator and shall be filed with the Auditor, who shall preserve the same among the files of his or her office. This annual report shall include a statement of the financial condition and pertinent engineering data of the Bureau of Water Works.

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21.16.030 Water Charged to Premises User.

All charges for furnishing water within the City and also to premises outside the City served directly by the Bureau shall be chargeable to the user of said water at that premises (or any former premises where water was supplied). If the premises are not in use the daily fixed charges shall be the responsibility of the owner. A property owner or his or her agent may become obligated for charges for furnishing such water to the user by accepting responsibility for payment thereof or by agreement with the Bureau. Where a user or property owner has a delinquent bill for one premises, said delinquency shall be a charge against said user or property owner (for water obtained) at any of his or her other premises served by the Bureau.

21.16.040 Delinquent Water Bills.

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Director of the Revenue Bureau or his or her designated representative shall have the authority to shut off water service to any customer when any charge to that customer has not been paid within 10 days after that charge is due and payable.

Before water service is shut off the Revenue Bureau shall give written notice to the service address provided by the water user as well as to the mailing address of the property owner or the party who has agreed with the Bureau to accept responsibility for payment. Such notice shall state the anticipated date when the water will be shut off, as well as informing the customer of his or her right to request an administrative review, and the procedure for requesting the review, to challenge the shut off.

It is the obligation of the water user or responsible party to ensure that the Revenue Bureau has the most current and accurate address for the user or responsible party. There is no obligation on the part of the Bureau to determine if the address provided is the best or the most current address.

Once service is shut off, water shall not again be provided until all outstanding obligations for water provided to that user shall have been paid, or arrangements for payments have been made with the Revenue Bureau, including additional charges as established in the annual water rate ordinance.

The Revenue Bureau Director or designated representative may, but is not obligated to, allow for continuation of water service for a specified period of time prior to payment of outstanding charges if it is determined that the lack of water will endanger health or cause substantial hardship. The continuation of water service may also be allowed when the delinquent customer is willing to enter into a payment arrangement satisfactory to the Director for payment of all of that customer's delinquent amounts. However, if the charges are not paid as agreed, then the water may again be shut off and not turned on again until the outstanding charges are paid in full or arrangements for payments are made with the Bureau.

The Revenue Bureau Director or designated representative may institute legal proceedings and contract with third parties for the collection of delinquent water bills and charges. The Director or representative may require that a deposit be made with the Bureau to ensure payment of future water bills and charges.

21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.

Either a property owner or a renter may notify the Bureau of the date to open or close an account for a renter. The Bureau will honor the first date on which the request was received to open or close the account. The Bureau will change this date if agreed to by all other affected parties. The Bureau will not mediate a dispute between landlord and renter regarding the dates when billing responsibility changes.

The Bureau bills all water service charges daily, regardless of whether the property is occupied or vacant. The property owner is responsible for all water charges while a property is vacant and no renter has accepted responsibility for water charges. If neither the renter nor the owner notify the Bureau that a renter has left tenancy, and the Bureau determines by a visit to the property that the property is vacant, water charges shall commence on that date to be applied to the owner.

21.16.060 Responsibility for Water Charges When Property Changes Ownership.

When a property is sold, the seller is responsible for all water charges until the date the buyer is entitled to possession. If there is a dispute between the seller and the buyer about the date of possession, the Bureau will use Multnomah County taxation records to verify the legal recording date.

21.16.070 Collection and Work Orders.

All payments and refunds shall be made by the Finance and Support Services section of the Bureau. The Finance and Support Services section shall assure that charges and credits are posted to customer accounts. Work orders for main extensions, service connections, and meter installations for which a deposit or charges are or may be made under this Title, shall be established by the Engineering Services section of the Bureau.

21.16.080 Dates and Places of Payment.

(Amended by Ordinance No. 179978, effective April 7, 2006.) Charges for water use shall be computed, and bills mailed, on a schedule determined by the Director of the Revenue Bureau. The billing schedule shall be kept on file by the Bureau. The water bill, with a due date, will be payable at either the Bureau or at authorized locations established by written agreement with the Director.

21.16.090 Deposit and Application.

An application, deposit, or both, for water service may be required from all new customers, customers shut off for nonpayment, or those customers with unsatisfactory credit moving within the Bureau's jurisdiction. Unsatisfactory credit is defined as not meeting credit and collection industry standards or by the Administrator. Failure to provide either the application, deposit, or both within the due date specified by the Water Bureau may result in discontinuance of service.

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21.16.100 Deposit of Money Received.

All monies collected or received by the Bureau of Water Works for the use and consumption of water or otherwise shall be deposited with the bank designated by the Treasurer of the City. The Treasurer shall keep the same separate and apart from the other funds of the City in funds to be known as the Water Fund and the Water Construction Fund, and pay it out only on checks signed by the Mayor, countersigned by the Auditor, and not otherwise.

21.16.110 Bureau May Contract for Collection of Revenues.

The Commissioner-In-Charge of the Bureau and the Auditor are hereby authorized to enter into contracts for periods not to exceed 5 years with such persons or corporations as may be selected by the Administrator for the collection of water revenue for the City. The contracts shall provide for compensation for collection and may cover certain expenses related to revenue collection. The contracts shall require that a bond be furnished by the collection agent or the City, at the City's option, the premium for such bond may be paid for by the City. The bond shall be conditioned upon the performance of such contract, and shall be in such form as may be satisfactory to the Administrator and the City Attorney.

21.16.120 Collections, Adjustments and Refunds.

(Amended by Ordinance No. 179978, effective April 7, 2006.) Water bills shall be computed monthly, bimonthly or quarterly and billed by the Utilities Customer Services Division of the Revenue Bureau.

All payments shall be made to, and refunds made by, the Utilities Customer Services Division of the Revenue Bureau. The Utilities Customer Services Division shall ensure that charges and credits are posted to customer accounts.

The Director of the Revenue Bureau or his or her designated representative may make adjustments, pay refunds or waive fees and charges where it is deemed necessary for the proper conduct of the business of the Bureau. A full explanation of the reason for an adjustment or refund must be filed with the Bureau records and available upon request. Refunds are to be made to the party who made the payment. Upon written request, the Bureau shall provide the customer with a written explanation detailing the circumstances of the error and the calculation of any adjustment or refund.

When the Bureau determines that a customer has been charged too much for water services, the refund shall be based on the date the error first occurred or as best determined from available records. If the date cannot be verified, the Bureau will estimate the amount of the refund based on a period not to exceed three years. The Bureau will make reasonable efforts to issue refunds due to customers who no longer have an account.

When the Bureau determines that a customer has not been charged enough, the Bureau will adjust the bill based on the date the error first occurred, the date the current customer became responsible for the bill, or three years, whichever is less. If a current customer has not been billed because the Bureau was not notified of his or her responsibility for payment, the Bureau will adjust the bill on the date the customer became responsible for

the bill. If the date cannot be verified, the Bureau will estimate the bill covering a period not to exceed six months. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

Adjustments and accruals shall be in the form of credits or additional charges. Credits shall be payable to, and charges shall be payable by, the customer of record during the time the error existed.

21.16.130 Adjustments on Account of Leaks.

(Amended by Ordinance No. 179978, effective April 7, 2006.) The Director of the Revenue Bureau or his or her designated representative may make adjustments to water use charges where a leak exists in the water system on the customer's side of the meter. The customer must make reasonable efforts to locate the leak and initiate repairs within 30 days after the leak was detected and have repairs completed within 90 days of notification.

21.16.140 Authority to Estimate Bills.

When a meter fails to register accurately, the Bureau shall charge for water based on the historic usage of water at the premises. Adjustments to the estimated bill may be made consistent with the provisions of 21.16.120 "Adjustments and Refunds."

21.16.150 Testing Meters.

When any water customer makes a complaint that the bill for any particular period is excessive, the Bureau will, upon request, have such meter reread and the service inspected for leaks. Should the customer then desire that the meter be tested, he or she shall make a deposit as prescribed in the annual water rate ordinance to cover the cost of making the test. Should the meter upon testing show a registration in excess of 3 % in favor of the Bureau, the amount deposited will be refunded and the Bureau shall make an adjustment for the estimated excess consumption on the bill immediately preceding and/or the current bill. The excess registration on the reading for the previous and/or current billing period shall be credited to the account. Where no error is found exceeding 3 % in favor of the Bureau, the amount deposited will be retained to cover the expense of such test.

21.16.160 Service Installation Fees.

The fees for installing and/or activating water service up to and including 1-inch in size shall be as provided in the annual water rate ordinance and shall be paid prior to service installation.

The fees for installing services greater than 1-inch shall be based on the Bureau's costs plus overhead, as provided in the finance regulations, Title 5 of the Code of the City of Portland. The applicant may choose to pay either a set price based on the Bureau's estimate or the actual cost of the installation. If the applicant accepts the Bureau's estimate as the set price these costs must be paid before the Bureau will perform the work. After a set price has been established, the Bureau will not refund or adjust installation charges unless changes in installation or location are requested by the

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applicant.

If the applicant chooses to pay the actual costs plus overhead he or she shall submit a deposit equal to the estimated cost before the Bureau will begin the work. When the estimated cost differs from the actual for labor, materials, and overhead the deficit shall be charged to the applicant or any excess payment shall be returned to the applicant.

In addition to the service installation fees, an applicant for new service must pay the System Development Charge, as described in Section 21.16.170 "System Development Charge" and as set in the annual water rate ordinance. If the service branch has been installed by a developer as allowed in section 21.12.110 "Installation of Service Pipes from the Main to the Property Line," the applicant will be charged for only the applicable system development charge and any charge for service activation as set in the annual water rate ordinance.

21.16.170 System Development Charge.

A customer requesting a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service").

21.16.180 Standby Service Charge

After July 1, 1999 a customer may elect to pay a standby service charge when water service is not currently needed, but will be needed in the future. The intent of standby service is for premises for which water will not be used for at least 1 year. If the customer elects standby service, the Bureau may remove the meter or physically disconnect the service at the property line. A customer must request standby service in writing from the Bureau. To reactivate the full water service, the customer must make payment to the Bureau for reactivation, as well as for any water use recorded on the meter during the period of standby service (see Section 21.12.180 "Disconnection of Service When Charges Have Not Been Paid"). The standby service charge shall be established in the annual water rate ordinance.

21.16.190 Charges for Water Used through a Fire Protection Service.

No charge shall be made for water used to extinguish a fire. Except as otherwise noted in this section, a customer may use water from the City to test the fire protection system. Water used to pressure test a fire protection system will be registered on detector check metered firelines, or estimated on unmetered firelines. Flow testing a fire protection system requires that the Bureau install a metering device on the service to register the water used.

Water used for testing a service for fire protection shall be charged at the commodity rates prescribed in the Water Rate Ordinance, as annually adopted by the City Council. Sewer charges will normally not be assessed for water used to test a fire protection

system. Testing that results in a volume of water that is determined to have a measurable impact on the sewer system may subject that service to a sewer charge.

Testing of a fire service may not be conducted in a manner that will degrade the public water system. Flow testing through a fire service shall not reduce the pressure in the main less than 50% of maximum static pressure and shall in no case reduce the pressure below 30 lbs per sq. in. In this regard, prior to testing large flows, the customer shall consult with the Bureau to determine limits of flow and to develop methods that may mitigate any detrimental effects on the public water system. Repeated testing of a fire service that violates a Bureau-approved testing program or affects the average daily water system conditions by more than allowable will result in a reclassification of the type of service and the collection of a System Development Charge.

21.16.200 Charges for Unauthorized Use of Fire Protection Service.

A fire service is to be used to extinguish a fire, and is specifically not to be used for domestic, maintenance, or irrigation purposes. (See Section 21.12.220 "Fire Protection Service.")

There are progressively increasing charges for unauthorized use of water supplied through firelines. There is a commodity charge of three times the normal rate for water for the first unauthorized use, and ten times the normal rate for all later unauthorized uses. If unauthorized use continues, the Bureau will install a full-flow meter and bill the customer for the full costs of the meter as well as System Development Charges. These policies and procedures are further detailed in the annual water rate ordinance.

21.16.210 Billing and Collection of Sewer User Charges.

The annual fee for billing and collecting sewer user charges by the Bureau shall be on a basis of agreement between the Commissioner-In-Charge of sewage disposal and the Commissioner-In-Charge of the Bureau of Water Works, and as approved annually by the City Council in the budget cycle.

21.16.220 Billing and Collection for Others by Contract.

The Bureau may bill and collect for user fees and services provided by other public and private entities as established by contracts approved by City Council. All revenue collected for other entities will be deposited in separate accounts.

Chapter 21.20

TURNING ON OR SHUTTING OFF

Sections:

- 21.20.010 Application To Turn On Water.
- 21.20.020 Temporary Shut Off.

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- 21.20.030 Unlawful To Turn On Water Without Authority.
- 21.20.040 Charges for Service Pipes Connected Without Permit.
- 21.20.050 Authority To Shut Off Service.

21.20.010 Application To Turn On Water.

Applications to turn on water must be signed by the owner and agent of the property involved and must be filed with the Bureau before they become effective.

21.20.020 Temporary Shut Off.

(Amended by Ordinance No. 179978, effective April 7, 2006.) An owner, agent, or tenant may request by telephone, in writing, or in person that the Bureau temporarily discontinue water service. Fire protection service may only be discontinued upon written request of the owner or authorized agent and approved by the Fire Bureau. Daily service charges will continue during temporary shut off.

21.20.030 Unlawful To Turn On Water Without Authority

It is unlawful to use or permit use of City water through a service that has been shut off. Should the water be turned on without authority from the Bureau, the Bureau may stop water service either by shutting off the water at the main, by removing the meter, or by any other appropriate method.

The charge for removing the meter and the charge for replacing the meter shall be in accordance with the annual water rate ordinance. The charge for stopping water service by any other method and the charge for subsequent restoring of the water service, shall be as provided in the Title of the City Code which addresses finance regulations. All such charges shall be charged to the user and when the delinquent user occupies the premises, water shall not again be furnished to the premises until the charges are paid.

21.20.040 Charges for Service Pipes Connected Without Permit.

When premises or additional premises are connected without the application prescribed in Section 21.20.010 "Application to Turn On Water." the premises may be charged as prescribed in the annual schedule of water rates and the service may be shut off by order of the Administrator. In case water shall be turned off as provided in this Section, the same shall not be turned on again until all rates and charges against the premises have been paid in full.

21.20.050 Authority To Shut Off Service.

The Bureau reserves the right at any time, without notice, to shut off the water supply for repairs, extensions, nonpayment of bill and charges or any other reason. The Bureau shall not be responsible for any damage, such as the bursting of boilers, the breaking of any pipes or fixtures, stoppage, or interruption of water supply, or any other damage resulting from the shutting off of the water.

Chapter 21.24

RULES AND REGULATIONS

Sections:

- 21.24.010 Animals Prohibited on Watershed or City Property.
- 21.24.020 Fire Hydrants.
- 21.24.030 Water for Naval Vessels in Harbor.
- 21.24.040 Access to Premises for Inspection.
- 21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.
- 21.24.060 Emergency Loan of Materials.
- 21.24.070 Impairment of Service to Other Customers.

21.24.010 Animals Prohibited on Watershed or City Property.

It is unlawful for any person to permit domestic animals to run at large on any lands owned by the City, situated in Multnomah County, or in Clackamas County, used by the City in connection with the headworks of the Bureau of Water Works or in lands owned by the City within the area of the National Forest Reserve, which lands are used in connection with the Bureau of Water Works of the City.

21.24.020 Fire Hydrants.

It is unlawful for any person to operate, alter, change, remove, disconnect, connect with, or interfere in any manner with any fire hydrant owned or used by the City without first obtaining written permission from the Bureau. Penalties for unauthorized use of a fire hydrant are set in the annual water rate ordinance. The provisions of this Section shall not apply to the Bureau of Fire of the City.

Public fire hydrants are available for use of the Fire Department in the suppression of fire within the City. No other use of public hydrants shall be allowed except as provided in this Section and in Section 21.12.090 "Permit for Temporary Service," and 21.12.100 "Annual Fire Hydrant Permit." The Bureau may permit short-term use of specified hydrants for activities such as tree spraying, street cleaning, ditch settling, building demolition, and related uses at the discretion of the Administrator, however, in each instance, a permit is required. A Temporary Permit will be issued by the Bureau for a period not to exceed 90 days, and an Annual Permit shall be issued for one year. Upon application the permittee will present a Chapman type (slow closing) gate valve to the Bureau to be tagged with a valid permit listing applicant's name, expiration date, and authorized locations. The permittee will be responsible for compliance with all city, state, and federal rules, regulations, and guidelines regarding the proper use and disposal of water. Rates and charges for usage will be specified in the annual water rate ordinance. Backflow protection will be required on all potential hazards to the public water supply as determined by the Administrator or Chief Engineer.

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All fire hydrants connected to the Bureau's water system within the City and within the public right-of-way or an approved easement are the responsibility of the Bureau for installation and maintenance. Any hydrant connected to the system outside the City will be installed at the petitioner's expense, but will be maintained by the Bureau. The petitioner will be required to pay all expenses for additional hydrant installations to meet requirements of the Fire Bureau and in all instances the Chief Engineer will have final review. The Bureau may elect to allow a contractor to install to Bureau standards, fire hydrants as part of his or her Subdivision under Section 21.08.020 "Distribution Main Extensions Inside the City." The developer will install these hydrants at his or her expense and transfer ownership to the Bureau at such time as the main and appurtenances are accepted by the Bureau to become part of the City system.

21.24.030 Water for Naval Vessels in Harbor.

(Amended by Ordinance No. 180120, effective June 9, 2006.) The Bureau is authorized to furnish water to any visiting naval war vessel of the United States or to any visiting naval war vessel of any foreign country entering the harbor in the City, without payment. All such connections shall require an approved backflow prevention assembly.

21.24.040 Access to Premises for Inspection.

To the full extent permitted by law, employees of the Bureau shall have free access, at proper hours of the day, to all parts of buildings and premises for the purpose of inspecting the condition of the water pipes and plumbing fixtures to determine whether cross-connections or other structural or sanitary hazards exist, and the manner in which the water is being used. Whenever the owner of any premise supplied by the Bureau restrains authorized City employees from making such necessary inspections or refuses access therefor, water service may be refused or discontinued.

21.24.050 Unlawful to Damage, Alter, or Tamper with Water Property.

It is unlawful for any person, without authority from the Bureau, to willfully damage, connect to, operate, alter, or otherwise tamper with any City water main, service, meter, meter box, hydrant, valve, or any other facility owned or operated by the Bureau.

21.24.060 Emergency Loan of Materials.

The Administrator may approve emergency loan of operating materials and equipment on a temporary basis to other governmental agencies, including water districts and municipalities, at their expense upon their written request, if such loan does not adversely affect the operation of the Bureau.

21.24.070 Impairment of Service to Other Customers.

Where the use of water is intermittent or where such use produces extreme volume or fluctuations that may impair service to other customers, the Bureau may require that the customer provide, at his or her own expense, suitable equipment to reasonably limit fluctuations in use and pressures caused by the customer's equipment or operations.

Chapter 21.28

DISTRIBUTION OF WATER OUTSIDE THE CITY

Sections:

- 21.28.010 Service Outside City.
- 21.28.020 Water Supply to Premises Outside the City of Portland.
- 21.28.030 Water Supply to Distributors by Contract.
- 21.28.040 Information To Be Furnished by Distributors.
- 21.28.050 Resale of Water Prohibited.
- 21.28.060 Local Storage Required.
- 21.28.070 Other Applicable Provisions.
- 21.28.080 Suspension of Service.

21.28.010 Service Outside City.

The Bureau may furnish water to places, individuals, water companies, cities, and water districts outside the City boundaries and may charge rates fixed by the Council in the annual water rate ordinance. Subject to the provisions of Section 21.12.010 "Service to Property Adjacent to Water Main" and Section 21.12.270 "Ownership of Meters," the customer must purchase a water service and meter of approved size and design, which shall be located where required by the City.

All service provided outside the City will be required to install a minimum of a double check valve assembly for backflow protection. The assembly shall be installed at the point of connection to the outside user of water. All associated costs of installation are the responsibility of the property owner or user.

21.28.020 Water Supply to Premises Outside the City of Portland.

Each individual applicant for a water supply outside of the City shall make application to the Bureau of Water Works upon a form containing the following agreement:

"Application is hereby made for water service at the premises known as outside the City of Portland, Oregon.

"It is understood and agreed that if this service be allowed, the undersigned owner and/or occupant of the premises referred to herein shall pay the rate prescribed by City ordinance from time to time for service at that location; that this service shall be a special contract service and not provided by the City as a common utility service; that the quantity of water supplied by this service may be reduced or the service entirely discontinued at any time when the Council of said City finds such action necessary in order to provide sufficient service to the inhabitants within the limits of said City, that at least 60 days' notice in writing shall be given by the City before such discontinuance may be put into effect; that notice delivered at the premises or at the last known address of the

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owner or applicant shall be sufficient; that the undersigned owner may discontinue service without advance notice of more than 1 day, but shall be responsible for all water served to the premises by the City until notice in writing is given of such discontinuance."

21.28.030 Water Supply to Distributors by Contract.

When any outside distributor desires to purchase water from the Bureau, the Mayor and the Commissioner-In-Charge of the Bureau may enter into and execute contracts to supply water in accordance with the rates established by the Council and subject to all the provisions of the Charter and ordinances, and may include special terms and provisions found by the Commissioner-In-Charge to be reasonable and appropriate in the particular circumstances.

21.28.040 Information To Be Furnished by Distributors.

On or before July 31 of each year, all outside City distributors shall furnish to the Bureau information requested by the Administrator, including but not limited to:

- A.** A legal description or map of the distributor's service area, at a scale no smaller than 200 feet to the inch showing the boundaries of the area supplied or to be supplied by its distribution system, and in addition, a map or maps showing all existing mains and those proposed to be installed within the next 12 months, the location, capacity, and overflow elevation of all storage tanks and reservoirs, as well as connections to other sources of water supply, whether such supply is owned by the distributor or obtained from others.
- B.** The origin, capacity, usage, and quality of each alternate source of water supply.
- C.** A detailed list of the total number of new water service connections and locations segregated into the categories of single-family dwellings, duplexes, dwellings of three or more units, commercial, industrial, and private fire line services and the size of the meter for each service installed during the previous 12 months as of June 30.
- D.** A statement listing both the total active and inactive services supplied directly and indirectly by distributor through other distributors as of June 30.

All distributors shall furnish to the Administrator within 10 days after the end of each month a statement showing the number of cubic feet of water sold by each source.

21.28.050 Resale of Water Prohibited.

Outside City distributors shall sell no water to other distributors without prior written approval of the Administrator. Such sales shall be subject to such conditions as the Administrator may impose. In the event the distributor makes such sales without such approval, the City may make corresponding reductions in the amount of water supplied to

the distributor or may impose rate penalties as deemed appropriate by the Administrator of and the Commissioner-In-Charge.

21.28.060 Local Storage Required.

All outside City distributors must provide a minimum storage of 3 times average daily consumption of water. The water supply may be discontinued at any time for noncompliance with this Section.

21.28.070 Other Applicable Provisions.

The following sections and provisions of this title shall apply to all outside City distributors and individuals purchasing water from the Bureau:

- 21.08.040 Extending Distribution Mains Outside the City.
- 21.12.010 Service to Property Adjacent to Water Main.
- 21.12.020 Size of Service Connection.
- 21.12.030 Application for Installation or Removal of Water Service.
- 21.12.070 Separate Service.
- 21.12.080 Service to Property Partially Outside the City.
- 21.12.270 Ownership of Meters.
- 21.12.280 Damaged Meters Owned by the City.
- 21.12.290 Meter Area and Access to Be Clear.
- 21.12.300 Shut Off Because of Defective Installation of Meters.
- 21.12.310 Authority for Testing and Repairing Meters.
- 21.12.320 Contamination of City Water Supply and Requirements for Backflow Protection.
- 21.16.010 Annual Water Rates.
- 21.16.030 Water Charged to Premises User.
- 21.16.110 Bureau May Contract for Collection of Revenues.
- 21.16.140 Authority to Estimate Bills.
- 21.16.180 Standby Service Charge.
- 21.20.050 Authority to Shut Off Service.
- 21.24.010 Animals Prohibited on Watershed or City Property.
- 21.24.060 Emergency Loan of Materials.

21.28.080 Suspension of Service.

The Bureau may suspend temporarily the delivery of water, for the purpose of making repairs or improvements to its system. During any emergency, the Bureau may apportion the available water supply among its customers in that manner which appears most equitable under the circumstances then prevailing and with due consideration for public health and safety.

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Chapter 21.32

WATER CONSERVATION MEASURES

Sections:

- 21.32.010 Declaration of Policy.
- 21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.
- 21.32.030 Enforcement.
- 21.32.040 Outside City Distributor.
- 21.32.050 Authority of Commissioner-In-Charge to Terminate Rules.

21.32.010 Declaration of Policy.

It is the policy of the City of Portland to provide clean, healthful, and plentiful water to its residents. There may be circumstances beyond the City's control, however, including most particularly weather conditions and the effects of natural catastrophe or the actions of others on the City's water supply sources, that make it necessary to reduce the water regularly used by the City's residents and apportion among the City's residents a restricted supply of water. In those circumstances, the City intends that water be apportioned in a manner that is consistent with the City Charter and other relevant provisions of this Chapter 21 of the City Code, is determined by the Bureau to be equitable under the circumstances, and takes into account public health and safety.

21.32.020 Authority of Commissioner-In-Charge to Adopt Rules.

A. Authorization.

1. When the Commissioner-In-Charge of the Bureau finds that a water shortage exists or is imminent or that any other emergency situation exists which threatens seriously to disrupt or diminish the municipal water supply, the Commissioner-In-Charge may authorize the Administrator to adopt rules, procedures, and forms to restrict water use in a manner that accomplishes the policy announced in this Subsection of the City Code and to otherwise implement the provisions of this Subsection.

B. Procedure.

1. Any rule to implement this Subsection or its amendment or recision, except as provided in Subsection B.3 below, shall be adopted pursuant to the public review process described in Subsection B.1.
 - a. Whenever the Administrator proposes to issue, rescind, or amend a rule, the Administrator shall first publish notice of such intent in a newspaper of general circulation in the Portland metropolitan area.

The notice shall include, at a minimum, the following: a statement of the time and place of any public meeting on any proposal; a statement of the purpose of the proposal; either the specific language of the proposal or a description of the proposal's contents; when language of the proposal is not included in the notice, the location at which copies of the full proposal may be read or obtained; the name of the person at the Bureau to whom questions about the proposal may be directed; and the announcement of the opportunity to provide written comments on the proposal to the Administrator within 30 days of the date the notice is published.

- b.** Forty-five days after publication of the notice, the Administrator shall hold a public meeting which shall record testimony and oral comments on any proposed rule(s). The Administrator may continue any such hearing to another date.
 - c.** After consideration of public comments and other relevant matters, the Administrator may issue the rules in final form. Notice of the issuance of the rules shall be given in a newspaper of general circulation in the same manner as the notice of a proposal to make, rescind, or amend rules.
- 2.** Unless otherwise stated in the rule, any rule shall become effective and enforceable upon issuance of the notice required in B.1.c above and shall be filed in the office of the Administrator.
- 3.** Notwithstanding Subsection B.1 above, an interim rule may be adopted without prior notice and without following the procedure of that Subsection upon a finding by the Administrator that failure to act promptly will result in serious prejudice to the public interest. Any rule adopted pursuant to this Subsection shall be effective for a period of not longer than 180 days.

21.32.030 Enforcement.

- A.** Customers who fail to comply with the requirements or prohibitions of this Chapter or rules adopted hereunder may be subject to enforcement actions by the Administrator.
- B.** Violations.
 - 1.** A violation shall have occurred when any requirement or prohibition of this Chapter or rules adopted hereunder has not been complied with.

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2. Each separate occasion on which a violation occurs shall be considered a separate violation. No more than one violation per prohibited use per day shall be issued.
- C. Enforcement mechanisms. In enforcing any of the requirements or prohibitions of this Subsection or rules adopted hereunder, the Administrator may:
1. Issue warning notices;
 2. Issue notices of violation and orders to comply;
 3. Institute an action before the Code Hearings Officer;
 4. Issue civil penalties, as set out in rules adopted under the authority of this Subsection; or
 5. Take such other action as the Administrator deems appropriate.
- D. Penalties. Violations of this Subsection or of rules adopted hereunder may be subject to the following penalties per violation:
1. Fine(s) up to \$500.
 2. Installation of a flow restrictor on the City side of the customer's water meter;
 3. Termination of water service.
- E. Appeal of enforcement action. Upon receipt of a notice of an enforcement action, a customer may appeal the Administrator's action within 30 days to the Code Hearings Officer in accordance with procedures set out in Chapter 22 of the Portland City Code; provided that such an appeal shall include a copy of the action that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Water Works.

21.32.040 Outside City Distributor.

Notwithstanding Subsection 21.32.010 to 21.32.030, water curtailment for outside city distributors shall be instituted pursuant to wholesale contractual agreements.

21.32.050 Authority of Commissioner-In-Charge to Terminate Rules.

When the Commissioner-In-Charge finds that the remaining water supply exceeds anticipated demand, and that the water shortage or any other emergency situation no longer exists or is imminent, the Commissioner-In-Charge may authorize the

Administrator to terminate rules, procedures, and forms that had been adopted to restrict water use.

Chapter 21.35

WELLHEAD PROTECTION

(Added by Ordinance No. 177668,
effective July 1, 2003.)

Sections:

- 21.35.010 Establishment of Wellhead Protection Area.
- 21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.
- 21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.
- 21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.
- 21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.
- 21.35.060 Enforcement.
- 21.35.070 Inter-Agency Cooperation.
- 21.35.080 Building and Site Permit Review and Approval.
- 21.35.090 Rulemaking.

21.35.010 Establishment of Wellhead Protection Area.

The Bureau of Water Works is authorized to establish wellhead protection areas in order to regulate the storage, handling, use and transportation of materials that could contaminate groundwater. The Bureau of Water Works shall establish the boundaries of wellhead protection areas based on the best available information about the dynamics of the aquifers that existing and future wells tap, the time-of-travel of hazardous materials and other relevant factors. The Bureau shall publish a map of all designated wellhead protection areas, shall certify copies to other city bureaus, and shall make such maps available to the public upon request and otherwise take steps, in its discretion, to publicize the availability of the maps to residences and businesses within the wellhead protection area. The Bureau of Water Works may alter the boundaries of a wellhead protection area if the information on which existing boundaries are based changes. Proposed changes to a wellhead protection area shall be adopted by rulemaking as set forth in Section 21.35.090

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21.35.020 Storage, Handling, Use and Transportation of Hazard Materials - Reporting.

- A.** The Bureau of Water Works shall have the authority to designate materials as hazardous and to require all persons or businesses possessing or using hazardous materials within the wellhead protection area to make annual reports to the Bureau concerning the types and quantity of hazardous materials stored, handled, used or transported, the storage and containment provisions for hazardous materials, and related information, including but not limited to a site plan indicating the location of hazardous materials manufactured, generated, stored or used, information indicating the location of drains, capacities of containment systems, drainage utility shut-off, and topographical information. If the Bureau of Water Works establishes reporting requirements, persons or businesses shall submit required information to the Bureau of Water Works in accordance with the schedule established in the Reference Manual. If another bureau is designated to receive reports on behalf of the Bureau of Water Works, and if it is deemed practical by both bureaus, reporting requirements and reports may be combined.
- B.** Failure to submit a complete report within the timeframe established in the Reference Manual constitutes a violating and shall be subject to enforcement pursuant to Section 21.35.050 of this Chapter.

21.35.030 Storage, Handling, Use and Transportation of Hazardous Materials - Standards.

- A.** Initial standards for the storage, handling, use and transportation of hazardous materials are contained in the Well Field Wellhead Protection Program Reference Manual, adopted as administrative rules concurrently with this Code. The Bureau of Water Works shall have the authority hereafter to promulgate rules pursuant to Section 21.35.090 to set or amend standards, including the standards found within the Reference Manual, for the storage, handling, use and transportation of hazardous materials that may be used within the wellhead protection area. The Bureau's authority to set standards shall extend to designation of materials as hazardous to groundwater quality, to storage, handling use, transportation, and containment of such materials both inside and outside structures, including equipment or devices for preventing and controlling spills or releases of such materials beyond containment vessels. Rules adopted under this Section of the water code shall be compiled in the Reference Manual.
- B.** Upon the effective date of this Chapter, existing businesses and individuals not in compliance with the standards set pursuant to this Chapter of the Code, shall bring their operations into compliance with applicable standards in accordance with the schedule established in the Reference Manual.

- C.** Within 15 months of the program effective date, the Water Bureau shall collect information on the number of existing, non-conforming businesses that will be required to upgrade operations to comply with the requirements of Subsection 21.35.030 B. Data gathered by the Water Bureau shall include information on the specific scope and extent of improvements required pursuant to Subsection 21.35.030 B. and shall be collected during routine inspections performed by the Portland Fire Bureau.
- D.** The Water Bureau and Bureau of Environmental Services shall evaluate collected information, in consultation with affected business and property owners, and business organizations to determine if improvements required by Subsection 21.35.030 B. are protective of water quality within the Wellhead Protection Area and Columbia Slough watershed. The Water Bureau and Bureau of Environmental Services will report to Council the results of this evaluation before January 1, 2005.
- E.**
- 1.** Site plans or permits for projects to bring existing non-complying operations into compliance with the standards of this Chapter and the Reference Manual shall not be subject to additional review by Bureau of Environmental Services to address source control issues of the City Stormwater Management Manual (SWMM).
 - 2.** The exemption from Bureau of Environmental Services review in Subsection 21.35.030 E.1., shall not apply where a business or property owner cannot manage increased stormwater resulting from modifications required to comply with the wellhead protection requirements entirely on-site. If such drainage cannot be managed on-site and will drain to a City sewer, a City sewer easement, or a City right-of-way, the permit shall have a BES source control review to assess impact to the Columbia Slough which may result in additional source protection measures beyond the Reference Manual Best Management Practices to address the increases in stormwater drainage. The requirements of Subsection 21.35.030 E.2. shall remain in effect until January 1, 2005.
Nothing in this provision shall exempt any site plan or permit from stormwater management requirements contained in sections of the Stormwater Management Manual that are not related to source control (source control requirements are currently contained in Chapter 4) or from future source control review criteria that may become required by state or federal law beyond the scope of requirements in the 2002 SWMM.
Nothing in this provision shall exempt any person from the requirements of City Code Chapter 17.34 related to industrial wastewater discharges to the City's sewer system or from the requirements of the NPDES permit program.

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21.35.040 Storage, Handling, Use and Transportation of Hazardous Materials - Inspections.

- A.** The Bureau of Water Works may conduct inspections of businesses that store, handle, use or transport hazardous materials to ascertain compliance with the standards of this Chapter, including but not limited to the types, quantities and locations of hazardous materials, primary and secondary containment facilities, and the existence of spill prevention and spill control equipment or devices. For purposes of exercising this authority, the Bureau shall adopt policy regarding the necessary qualifications for those who conduct inspections and the frequency, priority, and type of inspection of businesses based on, among other things, the degree of risk to water quality in the well field, history of violations, characteristics of the use, and the availability of budgeted funds and staff.
- B.** Inspections may be initiated as the result of a complaint or referral, at any time the Bureau has reason to believe there is a violation, or as defined by a routine schedule for compliance. Inspections and re-inspections will be used to determine if an operation is in compliance with this Chapter.
- C.** Inspections may involve a review of equipment, structures and operating practices; records or plan review; interviews with operators; and photo documentation. As such, businesses shall allow representatives of the Bureau, upon presentation of credentials, to:
 - 1.** Inspect at reasonable times any facilities, equipment, practices or operations regulated or required under the provisions of this Chapter;
 - 2.** Enter the premises where hazardous materials are being managed, or where records may be kept under the provisions of this Chapter. The owner/operator must make necessary arrangements to allow access without delay; and
 - 3.** Have access to and copy, at reasonable times, any records that must be kept under the provisions of this Chapter.
- D.** If a business refuses or declines to allow an inspection or re-inspection under Subsections 21.35.040 C.1.-3., the Water Bureau may seek an administrative warrant from Multnomah County Circuit Court to conduct such inspection or re-inspection.
- E.** After inspection and upon finding that all standards of this Chapter have been met, the Bureau of Water Works shall issue a Certificate of Inspection to each business inspected under this Chapter, as provided in Section 21.31.050.

- F.** In the event an inspection reveals a violation of the standards of this Chapter that cannot be resolved or corrected during the course of the inspection, the Bureau of Water Works shall follow the procedures set forth under Section 21.35.060, as applicable.
- G.** The Water Bureau may enter into interagency agreements with the Fire Bureau or other city bureaus, or contract with other governments or private parties, to conduct inspections inside the Portland city limits. Subject to Council approval, the Water Bureau may enter into contracts with private entities or intergovernmental agreements with other municipal corporations for inspections in those portions of the wellhead protection area outside the City of Portland boundaries.

21.35.050 Storage, Handling, Use and Transportation of Hazardous Materials - Certificates of Inspection.

- A.** A Certificate of Inspection shall be valid until a subsequent inspection or review or until it is revoked.
- B.** A Certificate of Inspection shall be kept on the premises at all times and be available for review by Bureau of Water Works personnel or other authorized City personnel.
- C.** A Certificate of Inspection shall contain the following information:
 - 1.** The address of the occupancy or facility, including exterior space utilized for storage, handling, use or transportation of hazardous materials;
 - 2.** The name and address of the person or business occupying the facility; and
 - 3.** A statement that the described occupancy complies with the applicable regulations and policies.
- D.** The issuance of a Certificate of Inspection does not suspend the applicability of any water regulations.
- E.** The Certificate of Inspection is issued to the business owner/operator for the existing use at the location specified in the Certificate. It is not transferable.

21.35.060 Enforcement.

- A.** Violations. It shall be a violation to store, handle, use or transport hazardous materials in a manner contrary to the standards set by the Bureau of Water Works.

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B. Warning Letter.

- 1.** The Bureau may issue a Warning Letter that informs an individual or business of a violation, and the consequences of the violation or continued noncompliance. The letter may state the actions required to resolve the violation and may specify a reasonable time by which compliance is to be achieved.
- 2.** As part of a Warning Letter, and depending on the number or gravity of violation(s), the Bureau may require an individual or business to prepare and submit a Compliance Plan that establishes a reasonable timeframe for correcting the violation(s) or the implementation of alternative storage, handling, use, transportation, or containment practices that are capable of satisfying the standards of this Chapter. A Compliance Plan shall be subject to review and approval of the Bureau of Water Works, or a designated bureau.
- 3.** If an individual or business fails to take the steps necessary to come into compliance within the period specified in the Warning Letter, the Bureau may take further enforcement action pursuant to Subsection 21.35.060 C.

C. Orders to Cure Violations, Civil Liability, Nuisances.

- 1.** If an individual or business fails to come into compliance in the time specified in a previously issued Warning Letter, or within a timeframe established in an approved Compliance Plan, the Bureau may issue an Order to Cure the violation and establish a final date for resolving the violation, after which Subsections 21.35.060 D. and E. may be invoked. Failure to comply with an Order to Cure shall be a violation of law.
- 2.** If the Water Bureau finds that there is an imminent danger of a release of hazardous materials into the environment resulting from the violation of standards governing the storage, handling, use and transportation of a hazardous material, the Bureau may declare that a nuisance exists and may issue, without prior notice, an Order to Cure requiring immediate action to be taken to halt any activity causing such imminent danger, and directing the individual or business to immediately take steps correct any conditions contributing to the danger.
- 3.** If the individual or business subject to an Order to Cure issued pursuant to this section does not comply with the Order, the Bureau may:
 - a.** Revoke a Certificate of Inspection;

- b.** Order the individual or business to cease the storage, handling, use or transportation of hazardous materials that are the subject of the violation until such time as the violation is corrected;
 - c.** Issue a Civil Penalty pursuant to Subsection 21.35.050 D.; or
 - d.** Undertake to correct any conditions contributing to the imminent danger of a release of hazardous materials into the environment. The costs of such action will be charged to the individual or business subject to such Order.
- 4.** The person or business subject to an Order to Cure issued under this Chapter may appeal said Order under Section 31.10.150 in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.10.150 I.
- 5.** Should hazardous material be released as a result of a violation, or as a result of a failure to correct a violation, the individual or business responsible for such spill shall be civilly liable for all costs incurred by the City associated with cleaning up such release and all costs of any other City action reasonably determined to be necessary by the City to contain, control or clean-up the release or to protect the well field from contamination.

D. Civil Penalty.

- 1.** In addition to any other fee or civil liability provided by law, the Bureau of Water may impose a civil penalty in an amount not to exceed \$500 per day or two times the re-inspection fee that would otherwise have been collected, whichever is greater, for each day a violation continues to exist against any individual or business who does not comply with the provisions of this chapter. Each failure to comply with a separate regulatory standard shall be deemed a separate violation.
- 2.** Any civil penalty imposed pursuant to this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Bureau of Water or designated bureau. The notice referred to in this Subsection shall be sent by registered or certified mail and shall include:

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- a.** A reference to the particular Sections of the Chapter or Code Section or Reference Manual involved;
 - b.** A short and plain statement of the matters asserted or charged;
 - c.** A statement of the amount of the penalty or penalties imposed; and
 - d.** A statement of the right of the person to request a hearing.
 - 3.** The owner or operator of a facility subject to this Section who is ordered to pay a civil penalty in accordance with this Section shall have the right to appeal the imposition of or amount of the penalty as provided by Section 31.10.150 of this Code in the same manner that an order of the Fire Marshal may be appealed. The Board of Fire Appeals shall handle any such appeal as provided in the Fire Code, except that the Board is not authorized to grant variances or adjustments under City Code Subsection 31.01.150 I.
- E.** Legal Action. The City may bring an action in a court of proper jurisdiction, including the Circuit Court of Multnomah County and the Federal District Court for the District of Oregon, to enforce any order to cure issued under this Chapter, collect any penalty assessed under this Chapter, or recover any costs incurred pursuant to Subsections 21.35.060 C.3. and 5.
- F.** Re-inspection Fees.
 - 1.** Any individual or business found in violation of law or any order under this Chapter and who fails to correct such violation or comply with such order within 30 days after receiving written notice from the Bureau of Water to do so, shall be charged and required to pay a re-inspection fee of:
 - a.** \$100 if violations remain uncorrected at the time of the first re-inspection,
 - b.** \$200 if violations remain uncorrected at the time of the second re-inspection,
 - c.** \$400 for the third and subsequent re-inspections if violations remain uncorrected at that time.
 - 2.** Re-inspection fees shall be in addition to any fees established by Council or the Water Bureau by rulemaking in the Well Field Wellhead Protection Program Reference Manual. Any person or business so charged a re-

inspection fee that believes that the charges are inappropriate may appeal such charges pursuant to City Code Section 31.10.150 in the same manner that an order of the Fire Marshal may be appealed. If the Water Bureau enforces this chapter through interagency agreement with the Fire Bureau or another bureau, the fees charged by that bureau shall be in lieu of the fees described in this paragraph.

21.35.070 Inter-Agency Cooperation.

The Bureau of Water Works may enter into inter-agency agreements with the Fire Bureau or other City bureaus to inspect premises, issue Certificates of Inspections, enforce standards, or otherwise administer this Wellhead Protection Code. If inter-agency agreements are made to enforce standards, and if circumstances make it practical, the Certificates of Inspection issued under this chapter shall be combined with any certificates of inspection or equivalent issued by the bureau enforcing this chapter.

21.35.080 Building and Site Permit Review and Approval.

No City building permit or other permit for site alterations, construction, building alterations, repairs, or other work involving or affecting the storage, handling, use, transportation, or containment of hazardous materials may be issued without the prior review and approval of the Bureau of Water Works. The Bureau of Water Works may approve any such permits only upon a finding that the activity proposed conforms with this Chapter and rules promulgated under this Chapter. Such plan review shall be conducted pursuant to City of Portland rules and practices for development review.

21.35.090 Rulemaking.

The Bureau of Water Works shall issue rules pursuant to authority granted in this chapter subject to the following process:

- A.** Whenever the Administrator proposes to issue, rescind, or amend a rule or rules, the Administrator shall first publish notice of such intent in a newspaper of general circulation in the Portland metropolitan area. The notice shall include, at a minimum, the following:
 - 1.** A statement of the time and place of any public meeting on any proposal;
 - 2.** A statement of the purpose of the proposal;
 - 3.** Either the specific language of the proposal or a description of the proposal's contents;
 - 4.** When language of the proposal is not included in the notice, the location at which copies of the full proposal may be read or obtained;

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- 5.** The name of the person at the Bureau to whom questions about the proposal may be directed; and
 - 6.** The announcement of the opportunity to provide written comments on the proposal to the Administrator within 30 days of the date the notice is published.
- B.** Forty-five days after publication of the notice, the Administrator shall hold a public meeting that shall record testimony and oral comments on any proposed rule(s). The Administrator may continue any such hearing to another date.
- C.** After consideration of public comments and other relevant matters, the Administrator may issue the rules in final form. Notice of the issuance of the rules shall be given in a newspaper of general circulation in the same manner as the notice of a proposal to make, rescind, or amend rules.
- D.** Unless otherwise stated in the rule, any rule shall become effective and enforceable upon issuance of the notice required in Subsection 21.35.090 C. above and shall be filed in the Office of the City Auditor as well as in the office of the Water Bureau Administrator.
- E.** Notwithstanding Subsections 21.35.090 A. - D. above, an interim rule may be adopted without prior notice and without following the procedure of those Subsections upon a finding by the Administrator that failure to act promptly will result in serious prejudice to the public interest. Any rule adopted pursuant to this Subsection shall be effective for a period of not longer than 180 days.