



AGENDA

STAYTON CITY COUNCIL MEETING

Monday, May 6, 2013

Stayton Community Center
400 W. Virginia Street
Stayton, Oregon 97383

CALL TO ORDER

7:00 PM

Mayor Vigil

FLAG SALUTE

ROLL CALL/STAFF INTRODUCTIONS

PRESENTATIONS/COMMENTS FROM THE PUBLIC

- a. Swearing in of new Reserve Police Officers, presented by Chief Rich Sebens

Request for Recognition: If you wish to address the Council, please fill out a green "Request for Recognition" form. Forms are on the table at the back of the room.

Recommended time for presentation is 10 minutes.

Recommended time for comments from the public is 3 minutes.

ANNOUNCEMENTS – PLEASE READ CAREFULLY

Items not on the agenda but relevant to City business may be discussed at this meeting. Citizens are encouraged to attend all meetings of the City Council to insure that they stay informed. Agenda items may be moved forward if a Public Hearing is scheduled.

- a. Additions to the agenda
- b. Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.

CONSENT AGENDA

- a. April 15, 2013 City Council Meeting Minutes

Purpose of the Consent Agenda:

In order to make more efficient use of meeting time, resolutions, minutes, bills, and other items which are routine in nature and for which no debate is anticipated, shall be placed on the Consent Agenda. Any item placed on the Consent Agenda may be removed at the request of any council member prior to the time a vote is taken. All remaining items of the Consent Agenda are then disposed of in a single motion to adopt the Consent Agenda. This motion is not debatable. The Recorder to the Council will then poll the council members individually by a roll call vote. If there are any dissenting votes, each item on the consent Agenda is then voted on individually by roll call vote. Copies of the Council packets include more detailed staff reports, letters, resolutions, and other supporting materials. A citizen wishing to review these materials may do so at Stayton City Hall, 362 N. Third Avenue, Stayton, or the Stayton Public Library, 515 N. First Avenue, Stayton.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting. If you require special accommodations, please contact Alissa Angelo, Deputy City Recorder at (503) 769-3425.

PUBLIC HEARING – None

UNFINISHED BUSINESS – None

NEW BUSINESS

Pool Management Options and Recommendations

Action

- a. Staff Report – Don Eubank and Christine Shaffer
- b. Council Deliberation
- c. Council Decision

STAFF/COMMISSION REPORTS

Police Department – Chief Rich Sebens

Informational

- a. Police Advisory Board Training
- b. Drug Take-Back Event

Public Works Department – David Kinney

Informational

- a. Stayton Municipal Code Title 13, Utility Deposit Updates
- b. Recent Bid Opening Update

PRESENTATIONS/COMMENTS FROM THE PUBLIC

Recommended time for presentations is 10 minutes.

Recommended time for comments from the public is 3 minutes.

BUSINESS FROM THE CITY ADMINISTRATOR

BUSINESS FROM THE MAYOR

BUSINESS FROM THE COUNCIL

FUTURE AGENDA ITEMS

ADJOURN

CALENDAR OF EVENTS

MAY 2013

Monday	May 6	City Council	7:00 p.m.	Community Center (north end)
Tuesday	May 7	Parks & Recreation Board	7:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	May 7	Budget Committee	7:00 p.m.	Community Center (north end)
Thursday	May 9	Budget Committee	7:00 p.m.	Community Center (north end)
Friday	May 10	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Monday	May 13	Budget Committee	7:00 p.m.	Community Center (north end)
Tuesday	May 14	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Wednesday	May 15	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	May 20	City Council	7:00 p.m.	Community Center (north end)
Monday	May 27	CITY OFFICES CLOSED IN OBSERVANCE OF MEMORIAL DAY		
Tuesday	May 28	Planning Commission	7:00 p.m.	Community Center (north end)

JUNE 2013

Monday	June 3	City Council	7:00 p.m.	Community Center (north end)
Tuesday	June 4	Parks & Recreation Board	7:00 p.m.	E.G. Siegmund Meeting Room
Tuesday	June 11	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	June 14	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Monday	June 17	City Council	7:00 p.m.	Community Center (north end)
Wednesday	June 19	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	June 24	Planning Commission	7:00 p.m.	Community Center (north end)

JULY 2013

Monday	July 1	City Council	7:00 p.m.	Community Center (north end)
Tuesday	July 2	Parks & Recreation Board	7:00 p.m.	E.G. Siegmund Meeting Room
Thursday	July 4	CITY OFFICES CLOSED IN OBSERVANCE OF INDEPENDENCE DAY		
Tuesday	July 9	Commissioner's Breakfast	7:30 a.m.	Covered Bridge Café
Friday	July 12	Community Leaders Meeting	7:30 a.m.	Covered Bridge Café
Monday	July 15	City Council	7:00 p.m.	Community Center (north end)
Wednesday	July 17	Library Board	6:00 p.m.	E.G. Siegmund Meeting Room
Monday	July 29	Planning Commission	7:00 p.m.	Community Center (north end)

**STAYTON CITY COUNCIL
MEETING MINUTES
April 15, 2013**

CALL TO ORDER

7:00 p.m.

Councilor Porter

FLAG SALUTE

ROLL CALL

Mayor Scott Vigil, excused
Councilor Henry Porter
Councilor Brian Quigley

Councilor Jennifer Niegel
Councilor Catherine Hemshorn
Councilor Emily Gooch

STAFF

Don Eubank, City Administrator
Christine Shaffer, Finance Director, excused
Rich Sebens, Police Chief
Dan Fleishman, Director of Planning and Development
Louise Meyers, Library Director, excused
David Kinney, Public Works Director
David A. Rhoten, City Attorney, excused
Alissa Angelo, Deputy City Recorder

PRESENTATIONS/COMMENTS FROM THE PUBLIC

- a. **Leslie Withers, 1248 E. Burnett Street:** Mr. Withers spoke on behalf of a group of residents in the Pioneer Meadows subdivision. He would like to see the Master Plan design sent back to the Planning Commission and Parks and Recreation Board. In theory, they are not against improvements to the park. They are strongly against closing Park Road and they feel there is an immediate impact on those living in the neighborhood. They feel it adds to existing problems without offering any solutions. Another concern is the placement of a parking lot on the east side of the park which they feel will bring increase traffic and crime.
- b. **Lance Graves, P.O. Box 4109, Salem:** Mr. Graves is representing Bill Martinak. He read a letter from Mr. Martinak which requested a meeting be scheduled between him and the City Council.

ANNOUNCEMENTS

- a. **Additions to the Agenda:** None.
- b. **Declaration of Ex Parte Contacts, Conflict of Interest, Bias, etc.:** Councilors Hemshorn, Niegel, & Porter stated they received phone calls from Alan Kingsley regarding the Natural Resource Overlay District (NROD). Councilor Quigley indicated he spoke with Mr. Withers regarding the Pioneer Park improvements as well as the NROD.

CONSENT AGENDA

- a. **April 1, 2013 City Council Meeting Minutes**
- b. **OLCC Change of Ownership – Stayton Market & Deli**

Councilor Quigley and Councilor Gooch requested item c be pulled from the consent agenda.

MOTION: From Councilor Gooch, seconded by Councilor Hemshorn, to adopt items a and b of the Consent Agenda. **Motion passed 5:0.**

c. Intergovernmental Agreement with Marion County Building Inspection

Mr. Fleishman provided the Council with background on the agreement, which has not been updated since 1998. Councilor Quigley inquired about 4.a. which references the enforcement of land use and zoning ordinances. Mr. Fleishman explained how this enforcement works in cooperation with the County Building Inspectors.

MOTION: From Councilor Niegel, seconded by Councilor Quigley, to adopt item c of the Consent Agenda. **Motion passed 5:0.**

PUBLIC HEARING – None

UNFINISHED BUSINESS

Ordinance No. 953, Natural Resource Overlay District

a. **Staff Report:** Mr. Fleishman briefly reviewed the staff report included in the Council packet.

b. **Council Deliberation:** Councilor Quigley still has several concerns with the NROD. He recommended a standard setback and felt it should be sent back to the Planning Commission. Mr. Fleishman provided information regarding Councilor Quigley's concerns.

Councilor Quigley asked how the changes would have affected the Library addition if they had been in place. Mr. Fleishman stated at the time it wouldn't have because the addition was made to the north end of the building. However, if approved, it would affect any future additions made to the Library building within that 50-foot setback.

Councilor Niegel stated her main concern is the 100-foot setback and she proposes the Ordinance be approved but with an amendment to refer the 100-foot setback requirement to the Planning Commission.

c. **Council Decision:**

MOTION: From Councilor Niegel, seconded by Councilor Gooch, to adopt the revised version of Ordinance No.953 as presented.

Discussion

Councilor Hemshorn asked about an email Mr. Fleishman had mentioned to her before the meeting that he had received from the DEQ regarding the setback. Mr. Fleishman spoke about the email he received from a DEQ representative who works with the Total Maximum Daily Load (TMDL) program. He stated she has a concern with any reduction in the width of the NROD. Councilor Quigley stated her lack of support changes things for him. Councilor Hemshorn stated in light of this information, she prefers to not make any changes to the NROD at this time.

UPON ROLL CALL VOTE, THE MOTION FAILED 1:4 (Gooch voted yes; Hemshorn, Porter, Niegel, Quigley voted no).

Councilor Porter closed the record for Land Use File 6-06/12.

Mr. Fleishman will create a new land use file for the NROD and take it back to the Planning Commission for review and new discussion. Public hearings will be held and it will eventually return to the Council.

NEW BUSINESS – None

STAFF / COMMISSION REPORTS

Finance Director's Report – Christine Shaffer

- a. **March 2013 Monthly Finance Department Report:** No discussion.

Police Chief's Report – Rich Sebens

- a. **March 2013 Statistical Report:** Chief Sebens briefly reviewed his report. He indicated Citations / Warnings should be increased from 219 to 243.

Public Works Director's Report – David Kinney

- a. **March 2013 Monthly Operating Report:** No discussion.
- b. **Downtown Trees:** Mr. Kinney updated the Council on the removal and replacement of trees in the downtown area.
- c. **Utility Deposit Ordinance:** Mr. Kinney informed the Council that at their next meeting, he will be bringing recommended changes to the utility deposit under Title 13 of the Stayton Municipal Code.
- d. **Pioneer Park Master Plan:** Mr. Kinney stated the Parks and Recreation Board is more than willing to meet with the Pioneer Meadows neighborhood to discuss their concerns. He reviewed the proposed improvements included in the recent grant application submitted to the Oregon State Parks and Recreation Department.

Councilor Quigley asked if the grant is awarded, are the only items that can be completed those that are described in the grant application. Mr. Kinney stated this is correct and Park Road was not included in the application. He estimates it would be several years before any potential funding was available to do the Park Road portion of the Master Plan.

Pool Report

- a. **March 2013 Monthly Operating Report:** No discussion.

Library Director's Report – Louise Meyers

March 2013 Activities / Statistics: Mr. Eubank provided a brief update regarding the recent Father-Daughter Ball held on April 13th.

BUSINESS FROM THE COUNCIL

Councilor Quigley inquired about permit requirement for tree removal. Mr. Kinney explained the requirements. Mr. Fleishman spoke about the requirements for heritage trees in the City.

PRESENTATIONS/COMMENTS FROM THE PUBLIC – None

BUSINESS FROM THE CITY ADMINISTRATOR

- a. **Meetings with Boards & Commissions:** As mentioned at a meeting earlier in the year, Mr. Eubank asked if the Council would like to set up a time to meet with the School Board and County Commissioners. There would be no specific agenda; it would be a chance to discuss what is going on with each group.
- b. **Town Hall Meetings:** Again, Mr. Eubank had inquired earlier in the year if the Council would like to continue holding Town Hall meetings. He asked them for their input on whether they would like to schedule one.
- c. In response to the letter read at the beginning of the meeting from Bill Martinak, Mr. Eubank stated this type of meeting is not appropriate and Mr. Martinak had already been aware of this at a previous meeting with the City’s legal counsel present.

BUSINESS FROM THE MAYOR

- a. Mayor Vigil has recommended the Council to ratify his appointment of Alan Kingsley to the Budget Committee.

MOTION: From Councilor Hemshorn, seconded by Councilor Niegel, to appoint Alan Kingsley to the Budget Committee. **Motion passed 5:0.**

BUSINESS FROM THE COUNCIL

In response to Mr. Eubank’s inquiry about town hall meetings, Councilor Quigley recommended a town hall be held for 30 minutes prior to a regular Council meeting. He didn’t see a need to have it on a separate day of the week.

Councilor Gooch asked if the town hall meetings were something that was held consistently in the past or on an as needed basis. Mr. Eubank stated in the beginning they were held every three months, then, as community attendance dwindled they were reduced to every four months.

ADJOURN

There being no further business, the meeting was adjourned at 8:10 p.m.

APPROVED BY THE STAYTON CITY COUNCIL THIS 6TH DAY OF MAY 2013, BY A _____ VOTE OF THE STAYTON CITY COUNCIL.

CITY OF STAYTON

Date: _____

By: _____
A. Scott Vigil, Mayor

Date: _____

Attest: _____
Don Eubank, City Administrator

Date: _____

Transcribed by: _____
Alissa Angelo, Deputy City Recorder



MEMORANDUM

TO: Mayor Scott Vigil and the Stayton City Council

**FROM: Don Eubank, City Administrator
Christine Shaffer, Finance Director**

DATE: May 06, 2013

SUBJECT: Pool Operation Agreement

The YMCA of Marion and Polk Counties is interested in partnering with the City of Stayton to operate our Pool facility. The YMCA has met with City Staff on numerous occasions to discuss how partnering will enhance the recreation programs offered to our community.

The YMCA has offered to run day to day activities at the Pool for \$65,000 annually, plus a one time buy out of our memberships of \$3,750. All of the staffing will be provided by the YMCA, our current employees will be given employment opportunities with the YMCA.

The YMCA will pay for all of the Pool chemicals as well as custodial supplies, office supplies, minor repairs, staff training and certification.

The City will provide water, sewer, electric, natural gas, telephone & alarms, garbage service. The City will also be responsible for major mechanical repairs and overall maintenance of the building. The City will do facility inspections to insure that we are aware of any needed repairs and maintenance issues.

The YMCA operated our pool facility from 1994 through 2002. The North Santiam YMCA Coordinator is Lisa Eckis. The YMCA will do a National posting to hire a Pool Director for the Stayton facility that will be supervised by Lisa.

The financial impact for the 2013-14 fiscal year is a reduction in the General Fund transfer to support Pool operations from \$73,500 to \$15,000, this is a savings of \$58,500.

RECOMMENDATIONS

Enter into a two year agreement with the YMCA to manage Pool Operations.

MOTIONS:

1. Move to direct the City Administrator to sign the two year Pool Operation Agreement with the YMCA as presented.
2. Move to direct the City Administrator to sign the two year Pool Operation Agreement with the YMCA as modified.

**POOL OPERATION AGREEMENT BETWEEN
THE FAMILY YMCA OF MARION & POLK COUNTIES
AND THE CITY OF STAYTON**

This Agreement is between the Family YMCA of Marion and Polk Counties, on behalf of the Santiam Family YMCA, hereinafter called "YMCA" and the City of Stayton, Oregon, hereafter called "City" for the operation in a manner which maximizes program use, public recreation use, and the general benefit of the public of the following:

Stayton Memorial Swimming Pool, located at 333 W. Burnett, Stayton OR.

I. OWNERSHIP

Ownership of the above facilities is vested in the City. As long as ownership is vested in the City, the City and the YMCA agree to cooperate in the operation of the Pool for aquatic programs and activities. The City agrees to furnish the Pool facility "as is" to the YMCA for the period of July 1, 2013, until June 30, 2015 at which time, the facility will be left in full working order with chemicals and equipment in place. Continuation of this Agreement and/or operation of the Pool by the YMCA after June 30, 2015 shall be subject to the City, having adequate funds in its budget to do so; and the YMCA having capacity to provide aquatics programming.

II. CONSIDERATION

- A. The consideration for this Agreement is the payment by the City to the YMCA of an annual fee of \$65,000 for the two year term of this Agreement. The City shall pay the sum in monthly installments beginning on July 1, 2013 of \$5,416 with the final payment in June 2015 accounting for the remaining balance. A one time fee of \$3,750 to assist the YMCA in offsetting the expense of servicing pool memberships and passes previously sold by the City will be paid to the YMCA by the City, July 1, 2013. Any Pool materials and/or equipment purchased either by the City or with City funds for the Pool will remain an asset of the City of Stayton and will be returned to the City at the termination of this Agreement. Any Pool materials and/or equipment purchased by the YMCA or with YMCA funds for the Pool will remain an asset of the YMCA and may be retained by the YMCA at the termination of this Agreement. Supplies or equipment provided through funding related to the City, or Friends of the Pool, will remain property of the City and designated as such when received by the YMCA unless designated otherwise.

- B. The City and the YMCA will share equally the proceeds from the Triathlon. Proceeds from this event will be designated by the City to support the pool as possible, and proceeds from this event will be designated by the YMCA to support the Partners With Youth Campaign to provide aquatics programming for those that otherwise could not afford to participate without financial assistance.

III. POOL USE AND POLICIES

The goal of the City and the YMCA is to provide aquatics programming to enhance the quality of life by introducing healthy lifestyle choices through aquatics programs at the Pool. The YMCA is authorized to establish and implement all pool use policy. This policy must be in compliance with all City and State regulations. The YMCA shall have the discretion of scheduling pool programs and activities. The YMCA will be open to public input and input from the City pertaining to these policies. It will be the goal of the YMCA to provide maximum programming to the public in the most cost efficient manner as possible.

IV. FEES

The YMCA may establish fees and/or charges for the use of the Pool. It is the goal of the YMCA to provide programming on a fee based service for those that can afford such programming and offer financial assistance to those who need it. The YMCA will be open to public input and input from the City pertaining to these pricing strategies.

The YMCA shall report to the City its schedule of all fees on July 1, 2013. The YMCA will notify the City and Public of changes as possible and with reasonable notice. It should be anticipated that there will likely be restructuring of fees, to conform to the YMCA established pricing models. At a minimum, the YMCA will report quarterly all fees to the City.

V. OPERATIONS

The YMCA shall have responsibility for:

- A. Routine and general maintenance, janitorial, responsibility, operation and security of the pool facilities. The expense of pool chemicals is the responsibility of the YMCA.
- B. Providing program, office and material supplies related to operation of the Pool.
- C. General policing of facilities and immediate area including parking during operating hours.
- D. Providing general liability insurance with coverage being not less than one million dollars (\$1,000,000.00) aggregate. Further, the YMCA agrees to hold harmless the City from all actions, damages, and claims arising from YMCA's operation of the Pool pursuant to this Agreement including any operational policies or practices.
<***our YMCA attorney will likely ask for a mutual hold harmless inclusion here.>
- E. Providing qualified staffing and supervision meeting all State and County requirements. Lifeguards must be nationally certified through the YMCA or other

accrediting organization. All Staff shall be employees of the YMCA, not the City.

- F. The YMCA shall be responsible for any additional costs incurred related to personnel, loss of income, etc., when the facility is out of service due to equipment breakdowns or repairs.
- G. The YMCA will provide quarterly summary financial and program reports to the City. The YMCA shall provide a distinction between admission fees between city residents and people who do not live inside the Stayton City limits. People who live outside the City limits may pay a higher fee for the use of the Pool than people who live inside the City.
- H. Developing and administering aquatics programs and activities at the Pool. Aquatics programs and activities shall include, but not be limited to, lap swimming, open swim time, lessons and fitness programs. The YMCA shall provide quarterly to the City report of any and all such programs and activities provided at the Pool.

VI. MAINTENANCE AND FACILITY OPERATIONS

The YMCA will coordinate a two week annual maintenance closure with the City. The City will provide contractors during this closure for major capital improvements and renovations. The City reserves the right to inspect the facility with reasonable notice to the YMCA. The City shall also obtain any permits necessary for Pool operations. Operational supplies, such as chemical disinfectants, restroom supplies, and cleaning supplies, shall be provided by the YMCA.

Major capital maintenance and improvements, including mowing of grounds, plumbing repairs, repair of building structures, roof replacement, Pool or deck repairs and/or fixed equipment shall be considered outside of the YMCA's responsibilities for routine maintenance of the Pool. Funding for these items may be considered and financed separately from operations.

The pool will be shut down for two weeks annually for maintenance by the City and the YMCA. Both the City and the YMCA agree to schedule any special projects requiring the pool to be closed, to be done at this time if at all possible.

The City shall furnish water, sewer, electric, natural gas, local telephone and solid waste disposal services during the operating season at no cost to the YMCA.

VII. INSURANCE – PROPERTY, LIABILITY, AND WORKERS COMPENSATION; YMCA AS INDEPENDENT CONTRACTOR

- A. Property – Each party shall insure properties respectively owned by either for fire, damages and/or destruction (vandalism, burglary, etc.).

- B. Liability – The City shall include the premises and operation of the Pool in its general liability insurance policy. The YMCA will include the premises and operation of the Pool in its general liability insurance.
- C. Workers Compensation – The YMCA is an independent contractor for this project and shall maintain workers compensation insurance covering the employees and volunteer assistants.
- D. Independent Contractor – The YMCA is an independent Contractor that shall be responsible for all wages, withholdings, employee/personnel matters relating to its employees and volunteer assistants and save harmless the City from any claims arising therefrom.

VIII. AMENDMENT OF AGREEMENT

The terms of this Agreement shall not be altered, waived, modified, supplemented or amended in any manner whatsoever except by written instrument signed by the parties.

IX. INTERPRETATION OF TERMS

Words, terms, phrases that are not specifically defined in this Agreement shall have the ordinary meaning ascribed to them unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number shall include the singular and words in the singular include the plural. The word "shall" is mandatory and not merely directive.

X. CONSTRUCTION

The provisions of this Agreement shall be construed in accordance with the laws of the State of Oregon. Any action or suit involving any question of construction arising under this Agreement must be brought in an appropriate court in the State of Oregon.

XI. SEVERABILITY

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

XII. ASSIGNMENTS AND RELATIONS TO OTHER CONTRACTORS

The provisions of this Agreement shall be binding and shall inure to the benefit of the parties and their respective successors.

XIII. IMPOSSIBILITY OF PERFORMANCE

Neither party shall be liable or deemed to be in default for any delay or failure to perform under this Agreement resulting from acts of God, civil or military authority, acts of public enemy, war, civil disturbances, accidents, fires, explosions, floods, energy shortages, material disruptions, transportation contingencies or any other causes beyond its control.

XIV. WAIVER

The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by the party of that or any other provision.

XV. DISPUTE RESOLUTION

- A. In the event a dispute arises between the parties as to the terms of this Agreement, the matter shall first be addressed through mandatory mediation.
- B. If not settled by mediation, the parties shall resolve the matter by binding arbitration in accordance with Oregon laws.
- C. In the event either party brings action to enforce the terms of this Agreement or to seek damages for its breach, or arising out of any dispute concerning the terms and conditions hereby created, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs, and expenses, incurred therein, including such costs and fees as may be required on appeal.
- D. This Agreement shall be construed according to the laws of the State of Oregon.

XVI. DISCRIMINATION

The parties agree not to discriminate on the basis of race, religion, sex, age, color, disability, or national origin in the performance of this Agreement.

XVII. TERMINATION

This Agreement shall continue in effect until terminated by either party with a ninety (90) day written notice, or until the termination of this Agreement on June 30, 2015. It should be the goal of both the City and the YMCA to have an agreement in principle for continuing this Agreement into the following year by March 31, 2015; subject to budget approval.

CITY OF STAYTON

**FAMILY YMCA OF MARION AND POLK
COUNTIES**

by: _____
Don Eubank, City Administrator

by: _____
Paul Manning, CEO

Date Signed

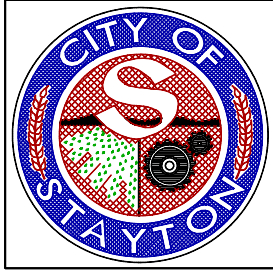
Date Signed

ATTEST:

Alissa Angelo, Deputy City Recorder

APPROVED AS TO FORM

David A. Rhoten, City Attorney



CITY OF STAYTON
MEMORANDUM

TO: Mayor A. Scott Vigil and City Councilors
THRU: City Administrator Don Eubank
FROM: David W. Kinney, Public Works Director
DATE: May 6, 2013
SUBJECT: Amendments to Stayton Municipal Code
Chapter 13.16 “Water”
Chapter 13.20 “Cross-Connections”

The Public Works and Finance Department have been working on an update to the Chapters 13.16 and 13.20 of the Stayton Municipal Code.

- Chapter 13.16 Water – This is the basic ordinance which governs the City’s water utility. It authorizes the City to operate and regulate the City’s water utility and authorizes the City to charge water rates and fees.
- Chapter 13.20 Cross-Connections: This ordinance complies with Oregon Administrative Rule, Chapter 333. The City, as a water purveyor, is required to adopt regulations governing cross-connections and to institute a “backflow prevention” program to protect the integrity of the water system.

The enclosed DRAFT code chapters are provided to the Council for review before they are presented for action and adoption. An adopting ordinance will be prepared and the issue will be placed on either the May 13th or May 27th agenda for consideration.

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.16

WATER SERVICE

SECTIONS

13.16.300	Purpose
13.16.310	Application
13.16.320	Service Specifications Generally
13.16.330	Dedication Required
13.16.340	Water Main Installation
13.16.350	Ownership, Installation, and Maintenance
13.16.370	Charges: Payment
13.16.380	Fire Protection Service
13.16.390	Water Meters: Use Required
13.16.395	Water Meters: Charges
13.16.400	Unauthorized Supply of Water
13.16.410	Fixtures and Equipment, Maintenance, Waste of Water Prohibited
13.16.420	Interruption of Service
13.16.430	Discontinuance of Service
13.16.440	Water Rates: Metered Service
13.16.450	Commercial Industrial Utility Deposits: When Required
13.16.460	Commercial Industrial Utility Deposits: Refunds
13.16.470	Commercial Industrial Utility Bills: Responsible Party
13.16.480	Commercial Industrial Utility Bills: When Due
13.16.490	Commercial Industrial Utility Bills: Delinquent Accounts
13.16.500	Commercial Industrial Utility Bills: Procedure for Shutting Off Water
13.16.510	Commercial Industrial Service Charge
13.16.520	Residential Utility Deposits: When Required
13.16.530	Residential Utility Deposits: Refunds
13.16.540	Residential Utility Bills: Responsible Party
13.16.550	Residential Utility Bills: When Due
13.16.560	Residential Utility Bills: Delinquent Accounts
13.16.570	Residential Utility Bills: Procedure for Shutting off Water
13.16.580	Residential Utilities: Service Charge
13.16.590	Appeal of Development Fees
13.16.600	Enforcement of Provisions
13.16.610	Violation: Penalty

13.16.300 PURPOSE

1. The purpose of this ordinance is to authorize charges, rates and fees for the use of the City water system, to regulate the use of City water, to provide a process for voluntary and involuntary discontinuance of service, to avoid those connections to the system which may be detrimental to the public and to provide for collection of charges.
2. The City finds that the operation and maintenance of the City water system and a portion of the costs of construction of the system should be funded through user charges imposed against those persons and activities using or receiving service from that system.
3. The City finds the charges, rates and fees are not subject to the property tax limitations of Section II(b), Article XI, of the Oregon Constitution;

TITLE 13. MASTER UTILITIES PLAN

4. It is the policy of the City 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 determined by the City Council to be equitable under the circumstances, and takes into account public health and safety.
5. Definitions: For purposes of this Chapter,

Finance Director. The finance director of the City of Stayton or designee.

Public Works Director. The public works director of the City of Stayton or designee.

New Section: This section outlines the overall purpose of Chapter 13.16. The purposes are:

1. **Regulate the use of water for all customers: residential and non-residential.**
2. **Authorize fees by separate resolution.**
3. **Authorize implementation of water curtailment in case of emergency.**

13.16.310 APPLICATION

1. Each applicant for water service shall sign an application for utility service form provided by the city. The application is a written request for utility service and does not bind the city to serve.
2. Any changes in the above-mentioned service shall require a new application for utility service. ~~public utilities~~ (Ord. 630, section 3[part], 1986; prior code section 5.023)
3. If an applicant for utility service has unpaid charges at another service address in the City, the City may refuse to provide service until either the unpaid charges are paid in full or the City authorizes the transfer of the unpaid balance to the applicant's new utility service account.

Explanation: This section codifies a billing policy already used by the Finance Department.

13.16.320 SERVICE SPECIFICATIONS GENERALLY

The city shall furnish and install water service consistent with the Public Works Design Standards and Public Works Standard Construction Specifications of the city. (Ord. 630, section 3[part], 1986; prior code section 5.027)

13.16.330 LOCATION OF WATER MAINS AND WATER METERS ~~DEDICATION REQUIRED~~

All water mains, service connections, and water meters shall hereafter be laid on dedicated city streets, public property, or on property on which the city has an easement to construct and maintain water lines. (prior code section 5.170).

13.16.340 WATER SERVICE LINE AND METER LOCATION ~~MAIN INSTALLATION~~

1. Where the water main is in the public right-of-way the water service line and meter will be located within the public right-of-way. ~~line nearest the property to be served for the standard service fee, provided that~~

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~~the length of service line does not exceed the width of the right of way.~~

2. Where the water main is in ~~on~~ a public utility easement or publicly owned property other than a designated right-of-way, the water service line and water meter shall be installed to the boundary of the easement or public property ~~by the city~~, provided that the length of service does not exceed sixty (60) feet.
3. ~~If, in either case cited in this section,~~ If the length of service line to the meter location exceeds sixty (60) feet ~~the maximum stated~~ the applicant shall pay the extra cost of the water service line on the basis of actual cost to the city. (Ord. 630, section 3[part], 1986: prior code section 5.028)

13.16.350 OWNERSHIP, INSTALLATION, AND MAINTENANCE

1. The city shall own, ~~install,~~ and maintain the water service line from the water main up to and including the water meter, where the water service line and meter are located in the public right-of-way or a public utility easement. ~~The installation and maintenance shall be performed by authorized employees of the city.~~
2. The customer shall own, install, and maintain the private service line from the water meter into the development.
3. If the water service line and water meter are located on private property, and are not located within a public utility easement, then the customer shall own, install and maintain the water service lines located on private property, but the city shall own, install and maintain the water meter. (Ord. 630, section 3[part], 1986: prior code section 5.024)

Explanation: Removed reference to City installing all service lines since private contractors install new service lines in subdivisions and new developments. The City places meters and maintains/replaces service lines after the City accepts them as part of the water system.

13.16.370 CONNECTION CHARGES ~~PAYMENT~~

At the time of application for the installation of a water service line and/or water meter, the applicant shall pay a water connection fee to cover ~~The minimum service charge is imposed for the purpose of paying the city's costs. for the installation and reconstruction of services water main to the water meter at the property line.~~ Charges for the installation of water service lines and water meters shall be set by separate resolution. (Ord. 630, section 3[part], 1986: prior code section 5.025).

Explanation: This section clarifies that an applicant for a new water meter and service must pay a connection fee. Fees will now be set by resolution. The fee is normally paid at the time a building permit is issued.

13.16.380 FIRE PROTECTION SERVICE

Fire protection facilities may be allowed inside and/or outside a building. When a building has a fire protection service which is separate from the regular service to the building, an approved proportional meter or detector check shall be used in place of a service meter. The owner of the building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing fire. If use is recorded on a proportioned meter or detector check, the installation of a service meter or the removal of the fire service may be required at the expense of the property owner. (Ord. 630, section 3[part], 1986: prior code section 5.029)

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13.16.390 WATER METERS: USE REQUIRED

1. Except as provided in Subsection 2. of this section, each single-family dwelling, each dwelling unit in a two-family dwelling, each dwelling unit in a three-family dwelling, and each non-residential ~~commercial~~ establishment ~~constructed after July 12, 1976,~~ shall have a separate water service line and water meter, provided that if special circumstances of construction render metering of such individual service impractical, the public works director, ~~council~~ may waive such requirements.

Explanation: In the past, the City has allowed duplexes to be served by one water meter. This creates a couple of operational problems:

- (1) When a plumbing problem or a water leak occurs on one side of the duplex, the City has turned water off, thereby turning off water to both units.
- (2) When the City has had to shut off water for non-payment, then both units are turned off.

2. ~~It shall be optional for any~~ Each structure containing more than three (3) residential dwelling units or three (3) non-residential establishments ~~business units~~ will be served ~~to be equipped~~ with a single meter for the entire building or by a separate water service line and meter for each unit. Each meter shall be located in the public right-of-way or in a public utility easement in accordance with sections 13.16.330 and 13.16.340 of this chapter. ~~provided, however, that single meters shall not be allowed unless the landowner records a form of restriction, as provided by the city, prohibiting future partitioning of the land or building. (Prior code section 5.115)~~

Explanation: Clarifies current city policy and is consistent with the Public Works Design Standards.

~~13.16.395 WATER METERS: CHARGES~~

~~Charges for the installation of water meters shall be (Ord 732, §8, October 1994):~~

- ~~1. ¾ inch meter \$200.00 each~~
- ~~2. 1 inch and over Materials and labor + 10%~~

Explanation: Section 13.16.395 is removed because fees will now be set by resolution.

13.16.400 UNAUTHORIZED SUPPLY OF WATER

1. No water customer shall supply water to any building, concern, person, family, or place other than the premises or persons specified in the application for service, except on written consent of the public works director. ~~or order to the superintendent of public works or other proper city official.~~ The consent shall designate the person, family, or building to be supplied and the purpose of the use.
2. In case of violation of this section, the customer ~~person so supplying or allowing the water to be used~~ shall be charged double the usual consumption charge for the amount of water used. ~~for such user so supplied or allowed to use the water. If the same is not paid on demand,~~ If violations continue after notice by the city, water service to the premises may be turned off until the violation is corrected and all charges are paid in full. ~~shall be cut off from the premises where delivery is made. (prior code section 5.147)~~

Explanation: Modified to reflect current city policy.

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13.16.410 FIXTURES AND EQUIPMENT, MAINTENANCE, WASTE OF WATER PROHIBITED

1. Each customer, at his own expense, shall maintain all faucets, taps, hoses, lines, and other equipment through which water flows from the city system in good condition and free from leakage.
2. Waste or excessive use of water is prohibited.
3. **When a leak and/or excessive use or waste of water is discovered by the city, the customer shall be notified.** Water leaks shall be repaired and excessive use of water or waste of water shall be stopped upon notice from the city. **Water service may be turned off to an authorized city representative on any premises where the city determines there is a leak, excessive use or waste of water** ~~are defective or leaky pipes, faucets, closets, or other fixtures until repairs are made. Water must not be allowed to run to waste through any faucet or fixture. When any waste is discovered which the superintendent of public works feels is unnecessary, the water may be cut off from such premises.~~ (prior code section 5.150)

Explanation: Clarifies policy on identification and fixing water leaks on the “customer’s” side of the water meter. It is consistent with our “practice” of working with property owners to identify leaks and get them fixed so water is not wasted.

The City has a “leak detection program” where the City hires a contractor every 3-5 years to search for leaks in the City’s distribution system. The next leak detection work will be in 2013-2014.

13.16.420 INTERRUPTION OF SERVICE

1. The city does not guarantee continuous, even, and uninterrupted water service to any customer, nor shall the city be liable for any loss or damage resulting from the operation or interruption of the water service, directly or indirectly.
2. The city ~~council~~ has the right to impose such temporary nondiscriminatory restriction, water rationing, or limitations on the use of water when it deems necessary or in the event of an emergency.
3. The city will make a reasonable effort to notify all customers of any anticipated interruption or any restrictions on water use, except in case of an emergency. (prior code section 5.145)

Explanation: The City has the right to ration water or curtail use in case of a water emergency. The City’s Water Master Plan has a “Water Curtailment/Rationing Policy & Procedure” section that has been approved by the Oregon Health Authority – Drinking Water Section.

13.16.430 DISCONTINUANCE OF SERVICE

1. Every customer who is about to vacate any premises to which water service is supplied by the city shall give seventy-two hours ~~five (5) days~~ notice in advance of the intended date of discontinuance of service. The customer shall be held responsible for all services rendered to such premises until such notice is received and service discontinued. (prior code section 5.155)

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2. If water service is discontinued for any reason, all past due bills, fees and service charges must be paid in full by the property owner or other responsible party before water service is restored and/or service is provided to a new customer.

Explanation: The City practice has been to ask customers to notify the City 72 hours in advance of when they vacate the premises. Not all customers or landlords give the City advance notice when the customer leaves.

13.16.440 WATER RATES, METERED SERVICE

1. Water rates are comprised of the four (4) ~~five (5)~~ items as described:
 - a. Base Rate.
 - b. Meter Equivalent Charge per meter per month: Compound meters shall be charged only in the largest meter in the compound at each service. On-site fire service shall be billed as per meter size. If unmetered, the charges shall be by line size as stipulated in the Fire Line Schedule. Services used for irrigation only shall be billed similarly to fire services.
 - c. Fire Standby Charge: A fire standby charge shall be levied on each occupancy served by City water. In occupancies that are served by more than one water service, the charge shall be levied only on one service.
 - d. Commodity Charge.
2. Water rates shall be established by separate ~~Stayton City Council~~ resolution and will be effective on the date specified in the resolution. ~~determined by resolution.~~ Ord. 805, Sept. 7, 1999)

Explanation: Water fees and charges will all be set by resolution. All specific fees are removed from SMC 13.16.

13.16.450 ~~NON-RESIDENTIAL COMMERCIAL INDUSTRIAL~~ UTILITY DEPOSITS: WHEN REQUIRED (Ord. 774, October 22, 1997)

1. A utility deposit of ~~\$75.00~~ for water and sewer service, ~~or an amount equal to one month's service, whichever is greater,~~ shall be required of all persons requesting utility service at any non-residential ~~commercial/industrial~~ premises. (Ord. 774, October 22, 1997)
2. The utility deposit shall bear no interest (Ord. 732, §9, October 1994).

Explanation: The staff recommends the utility bill deposit be raised from \$75.00 to \$150.00. The deposit amount has not been changed since 1997. It is intended to cover 2 months of outstanding water bills, but the \$75.00 deposit barely covers one month's utility bill. The new deposit will be included in the fee resolution.

The City has received a number of requests from landlords asking the City to increase the deposit, since the property owner is responsible to cover any outstanding bill before water service is restored to the premises. A \$150 deposit is similar to deposits charged by other cities in the area.

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13.16.460 NON-RESIDENTIAL ~~COMMERCIAL/INDUSTRIAL~~ UTILITY DEPOSITS: REFUNDS(Ord. 774, October 22, 1997)

- 1. Upon discontinuance of service to any customer, the city will refund the customer's deposit or the balance, if any, in excess of the unpaid bills owing for utility service furnished by the city.
- 2. The utility deposit shall be refunded to the customer after twenty-four (24) ~~twelve (12)~~ months if all utility bills have been paid within ten (10) days of the due date, and if service has not been discontinued for non-payment during any twelve (12) month period. (Ord. 774, October 22, 1997)
- 3. A new utility deposit may be waived when any customer moves from one location in the city to another location in the city if, within the prior twenty-four (24) ~~twelve (12)~~ months, the customer has paid all utility bills to the city within ten (10) days of the due date and service has not been discontinued for non-payment.(Ord. 774, October 22, 1997).

Explanation: Modifies when the deposit is refunded.

13.16.470 NON-RESIDENTIAL ~~COMMERCIAL/INDUSTRIAL~~ UTILITY BILLS: RESPONSIBLE PARTY

- 1. Where more than a single building ~~dwelling unit~~, occupant or business is serviced by a single water meter, the bill for utilities shall be sent to the property owner of record, or a responsible person/property manager authorized by the owner of the premises.
- 2. The property owner of record shall be responsible for the payment of all charges prescribed in this ordinance. If the property is rented and the renter fail to pay the charges, the city shall present the bill to the property owner for payment. (Ord. 774, October 22, 1997).
- 3. All water and sewer charges shall be a lien against the premises served from and after the date of billing and entry in the city lien docket. The lien docket shall be made accessible for inspection by anyone interested in ascertaining the amount of the charges against the property. When a bill for water or sewer service remains unpaid thirty (30) days after it has been rendered, the lien thereby created may be fore-closed in any manner provided by law, this code, or city ordinance. (Ord. 662, section 1[part], 1990: prior code section 5.138)

13.16.480 NON-RESIDENTIAL ~~COMMERCIAL/INDUSTRIAL~~ UTILITY BILLS: WHEN DUE(Ord. 774, October 22, 1997)

All accounts for water and sewer service are due and payable at city hall on the tenth day of each calendar month for the previous month's use. (Ord. 662, section 1[part], 1990: prior code section 5.140)(Ord. 774, October 22, 1997)

13.16.490 NON-RESIDENTIAL ~~COMMERCIAL/INDUSTRIAL~~ UTILITY BILLS: DELINQUENT ACCOUNTS(Ord. 774, October 22, 1997)

- 1. Utility ~~Water and sewer~~ bills become delinquent if not paid within ten (10) days after it becomes due, as specified in Section 13.16.480 of this chapter. (Ord. 774, October 22, 1997).
- 2. Notices of delinquent accounts will be mailed to occupants and property owners on the first working day

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after delinquency occurs advising them of the delinquency and the proposed shut-off date.(Ord. 774, October 22, 1997)

3. The City may shut off water for any customer whose account has become delinquent or who has not paid the utility deposit in accordance with procedures set out in Section 13.16.450 of this ordinance for such time as the default of payment may continue. (Ord. 662, section 1[part], 1990: prior code section 5.141)
4. A final delinquent notice will be attached to the door at the ~~of any owner/occupied~~ service address for which payment has not been made, not less than fourteen (14) ~~twenty (20)~~ days after delinquency as defined in 13.16.560.1. The notice will inform the customer that the utility bill must be paid within a minimum of 24 hours or the water service will be shut off after the date and time specified on the final notice. (Ord. 774, October 22, 1997).
5. Processing Fees for Repeat Delinquent Accounts
 - a. An account is considered a delinquent account if it has fallen delinquent. (Ord.819, December 4, 2000).
 - b. The City may assess a ~~\$15~~ processing fee for delinquent accounts in addition to other penalties provided for in this chapter. (Ord.819, December 4, 2000).
 - c. The ~~\$15~~ processing fee may be waived by the Finance Director of the City if an agreement for payment, satisfactory to the City, can be reached and is performed.
 - d. Arrangements for payment may be made with the concurrence of the Finance Director under ~~the following~~ unique or unusual circumstances. The Finance Director's decision may be appealed, in writing, to the City Administrator. The City Administrator shall review the appeal and either reverse, modify or uphold the Finance Director's decision. The City Administrator's decision shall be final. ~~circumstances:~~
 - ~~i. unique and unusual circumstances;~~
 - ~~ii. or direction;~~
 - ii. City Council direction.**
- e. A limit of four (4) occurrences per year of unusual circumstances may be claimed by any utility customer.
- e. The Finance Director may increase, to double the average monthly billing of the past year, the amount of the utility deposit if payments have been delinquent more than three times in the past year. (Ord. 774, October 22, 1997).

13.16.500 NON-RESIDENTIAL ~~COMMERCIAL/INDUSTRIAL~~ UTILITY BILLS: PROCEDURE FOR SHUTTING OFF WATER (Ord. 774, October 22, 1997).

Whenever water is shut off to any premises for non-payment of a utility bill, ~~water and/or sewer bills~~, the following procedure shall apply:

1. Prior to shutting off water service, ~~On the initial shut-off date~~, an agent of the city shall advise an occupant of the premises that the water service is to be discontinued unless the delinquent amounts are paid within twenty-four (24) hours. The agent shall leave a notice on the door advising the occupant that water service is to be discontinued in twenty-four (24) hours if the full amount of the delinquent bill and fees are not paid.(Ord. 774, October 22, 1997).

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2. If full payment of the delinquent amount and fees is not made to the city within the 24-hour period, the agent shall immediately turn off the service, without necessity of further notice to the occupant.(Ord. 774, October 22, 1997).
 3. The city shall charge a customer a shut-off fee, ~~\$20.00~~, or the actual cost of labor and materials, whichever is greater, for notification and restoration of the water service. (Ord. 662, section 1[part], 1990: prior code section 5.142)(Ord. 774, October 22, 1997).
- 13.16.510 NON-RESIDENTIAL ~~COMMERCIAL/INDUSTRIAL~~ SERVICE CHARGE (Ord. 774, October 22, 1997)
1. CUSTOMER REQUESTED TEMPORARY TURN-OFF OF SERVICE: The city shall charge a ~~customer~~ ~~a \$10.00~~ service charge for each time the water service is turned-off at the meter. (Ord. 774, October 22, 1997)
 2. RESTORATION OR TURN-ON OF SERVICE: The city shall charge a ~~customer a \$10.00~~ service charge for each time the water service is turned on at the meter.
 3. ADDITIONAL CHARGES: In addition to the ~~\$10.00~~ turn-off or turn-on charge listed in subsections (1) and (2) of this Section, the city shall ~~may~~ charge a customer the actual cost of labor and materials plus 10% administrative services in the event the city removes or reinstalls a water meter and/or service connections due to an owner request or tampering with city-owned water services (Ord. 732, §10, October 1994).(Ord. 774, October 22, 1997)
 4. The Finance Director may waive fees.
- 13.16.520 RESIDENTIAL UTILITY DEPOSITS, WHEN REQUIRED (Ord. 774, October 22, 1997).
1. A utility deposit of ~~\$75.00~~ for water and sewer service, ~~or a deposit of \$37.50 for water service or \$37.50 for sewer service~~ shall be required of all persons requesting utility service at any premises. (Ord. 774, October 22, 1997).
 2. The utility deposit shall bear no interest. (Ord. 774, October 22, 1997).
 3. Persons making the deposit will ~~shall~~ be advised of or given a copy of "The City of Stayton Billing Policy" at the time the deposit is made. (Ord. 774, October 22, 1997).
- 13.16.530 RESIDENTIAL UTILITY DEPOSITS: REFUNDS (Ord. 774, October 22, 1997)
1. Upon the discontinuance of service to any customer, the city will refund the customer's deposit or the balance, if any, in excess of the unpaid bills owing for utility service furnished by the city. (Ord. 774, October 22, 1997).
 2. If a customer is the owner/occupant of the premises being serviced, the utility deposit shall be fully refunded to the customer after twenty four (24) ~~twelve (12)~~ months if all utility bills have been paid within ten (10) days of the due date, and if service has not been discontinued for non-payment during the prior twelve (12) month period. (Ord. 774, October 22, 1997)
 3. If a customer is a tenant, lessee, agent, or other person responsible for payment of the utility bill service, but is not the owner/occupant, the utility deposit shall be refunded only upon discontinuance of service as described in Section 1. above. (Ord. 774, October 22, 1997).

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4. A new utility may be waived when any customer moves from one location in the city to another location or requests service at a new location in the city if, within the prior twelve (12) months, the customer has paid all utility bills to the city within ten (10) days of the due date and service has not been discontinued for non-payment. (Ord. 774, October 22, 1997).

13.16.540 RESIDENTIAL UTILITY BILLS: RESPONSIBLE PARTY (Ord. 774, October 22, 1997)

1. Where more than a single dwelling unit ~~or business~~ is serviced by a single water meter, the bills for utilities shall be sent to the owner of the premises regardless of whether the premises is occupied by the owner or by a renter, lessee, or other tenant occupant.
2. The property owner of record shall be responsible for the payment of all billings prescribed in this ordinance. If the property is rented and the renter fails to pay the charges, the city shall submit the bill to the property owner for payment. The owner is responsible for all delinquent billings, but is not responsible for any penalties assessed for delinquency.
3. All water and sewer charges shall be a lien against the premises served from and after the date of billing and entry in the city lien docket. The lien docket shall be made accessible for inspection by anyone interested in ascertaining the amount of the charges against the property. When a bill for water or sewer service remains unpaid thirty (30) days after it has been rendered, the lien thereby created may be fore-closed in any manner provided by law, this code, or city ordinance.

13.16.550 RESIDENTIAL UTILITY BILLS: WHEN DUE (Ord. 774, October 22, 1997)

All accounts for water and sewer service are due and payable at city hall on the tenth day of each calendar month for all the previous month's use.

13.16.560 RESIDENTIAL UTILITY BILLS: DELINQUENT ACCOUNTS (Ord. 774, October 22, 1997)

1. Utility bills (~~water and sewer~~) become delinquent if not paid within ten (10) days after they become due as specified in Section 13.16.550 of this chapter.
2. Notices of delinquent accounts will be mailed to occupants and property owners on the first working day after delinquency occurs advising them of the delinquency and the proposed shut-off date.
3. The City may take whatever steps it deems appropriate, including discontinuance of service, at any property, regardless of whether the property is owner-occupied or is occupied by a renter, lessee, or other party, if a utility deposit has not been paid and/or the account has become delinquent, as defined in subsection 13.16.560 (1) of this chapter, for such time as the default of payment may continue.
4. A final delinquent notice will be attached to the door at the ~~of any owner/occupied~~ service address for which payment has not been made fourteen (14) ~~twenty (20)~~ days after delinquency as defined in 13.16.560.1. The notice will inform the customer that the utility bill must be paid within a minimum of 24 hours or the water service will be shut off after the date and time specified on the final notice.

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5. Processing Fees for Repeat Delinquent Accounts

- a. An account is considered a delinquent account if it has fallen delinquent. (Ord. No. 819, December 4, 2000).
- b. The City may assess a ~~\$15~~ processing fee for delinquent accounts in addition to other penalties provided for in this chapter. (Ord. No. 819, December 4, 2000).
- c. The ~~\$15~~ processing fee may be waived by the Finance Director of the City if an agreement for payment, satisfactory to the city, can be reached and is performed.
- d. Arrangements for payment may be made with the concurrence of the Finance Director under unique or unusual ~~the following~~ circumstances. The Finance Director's decision may be appealed, in writing, to the City Administrator. The City Administrator shall review the appeal and either reverse, modify or uphold the Finance Director's decision. The City Administrator's decision shall be final.

~~i. Unique and unusual circumstances~~

~~ii. City Council direction~~

A limit of four (4) occurrences per year of unusual circumstances may be claimed by any utility customer.

- e. The finance director may increase to double the average monthly billing of the past year to access the amount of the utility deposit if payments have been delinquent more than three times in the past year.

13.16.570 RESIDENTIAL UTILITY BILLS: PROCEDURE FOR SHUTTING OFF WATER (Ord. 774, October 29, 1997).

Whenever the city must take action to discontinue service to any premises for non-payment of a utility bill, ~~water and/or sewer bills~~, the following procedure shall apply:

1. On the initial shut-off date, an agent of the city shall advise an occupant of the premises that the water service is to be discontinued unless the delinquent amounts are paid within twenty-four (24) hours. The agent shall leave a notice on the door advising occupant that water service is to be discontinued in twenty-four (24) hours if full amount of the delinquent bill, including service charges and fees, are not paid. ~~the delinquency is not paid.~~
2. If full payment is not made to the city within the 24-hour period, the agent shall immediately turn off the service, without necessity of further notice to the occupant.
3. The city shall charge a customer or owner a shut-off fee established by resolution, ~~\$20.00~~, or the actual cost of labor and materials, whichever is greater, for notification and restoration of the water service.

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13.16.580 RESIDENTIAL UTILITIES: SERVICE CHARGE (Ord. 774, October 22, 1997)

1. CUSTOMER REQUESTED TEMPORARY TURN-OFF OF WATER SERVICE: The city shall charge a ~~customer a \$10.00~~ service charge for each time the water service is turned off at the meter.
2. RESTORATION OR TURN-ON OF WATER SERVICE: The city shall charge a ~~customer a \$10.00~~ service charge for each time the water service is turned on at the meter.
3. ADDITIONAL CHARGES: In addition to the ~~\$10.00~~ turn-off or turn-on charge referred to in subsections ~~Sections~~ (1) and (2) of this Section, the city shall ~~may~~ charge a customer the actual cost of labor and materials plus 10 percent of the actual costs for labor and materials for administrative services in the event the city removes or reinstalls a water meter and/or service connections due to tampering with city-owned water services by the owner and/or the customer.

NEW SECTIONS

Explanation: The next two sections were borrowed from the City of Tigard and City of Tualitan codes. They provide the Finance Department with clear policy directives and authorizations on how to handle account adjustments, payment agreements and customer appeals of utility charges.

There is no policy language or procedures in the existing Chapter 13.16.

13.16.xxx Utility Charge Adjustments And Payment Agreements

1. Errors in billing or collection shall be corrected in a timely manner by the City. Resulting credits on accounts or refunds shall be made as expeditiously as possible. Disputed billings or other collection transactions shall be dealt with as set forth in this Section.
2. The Finance Director may request the Public Works Department check meter readings or test the water meter to verify or validate a customer's water consumption and/or determine whether or not there is a leak on the customer's side of the water meter.
3. Authority is granted to the Finance Director to make adjustments to utility charges and to implement payment agreements. Adjustments to utility charges may be made based upon a written request from the customer and for good cause. Good cause may include but is not limited to correction of user or account information, failure of the City to send a bill, demonstrated failure of a user to receive a bill, meter reading errors and adjustments to the time in which requester became the user. Waivers may include returned check charges, fees, disconnection charges or water/sewer utility charges.
4. Leak Adjustments. The Finance Director may adjust a bill if the City verifies or agrees a leak or break in the customer's system was the reason for excessive water consumption. If a leak is found and repaired, the customer shall submit a written request for adjustment of the account, together with an itemized receipt for repairs (or other satisfactory evidence of repair) within thirty (30) days of such repair. The customer shall be required to pay the outstanding balance on the account for

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all consumption. Upon verification of a leak, the Finance Director may approve a credit to the account for one-half the applicable consumption rate for consumption amounts which exceed the normal consumption amount for a period of up to six months. The monthly base rate, meter equivalent charge and fire line charge shall not be adjusted under this subsection. The leak credit will be applied to the account within 90 days of approval.

5. Payment Agreements. The City may enter into a payment agreement with a customer to facilitate the payment of delinquent utility charges. Such agreements shall not exceed the term of three years, current charges must be paid when due, and the agreement must be signed by both parties and must be a legally binding agreement. Breach of such an agreement by the customer shall result in further collection efforts. Payment agreements for amounts over \$10,000 must be approved by the City Council.

13.16.xxx Customer Appeal Process.

1. Customers shall have the right to appeal utility billing decisions made by staff. If a customer is not satisfied with a decision by the utility billing staff, the customer may appeal the staff decision to the Finance Director. The customer's appeal must be in writing. The appeal must explain the decision being appealed, the requested remedy and justification for the customer's position.
2. Within fourteen (14) days the Finance Director shall consider the appeal and issue a written decision either upholding the staff decision, modifying the decision or granting the appeal. The Finance Director's decision may be appealed in writing to the City Administrator within ten days.
3. Within fourteen (14) days the City Administrator's shall consider the appeal and issue a written decision. The City Administrator's decision may be appealed within fourteen days of the decision to the City Council.
4. The Council will consider the appeal at a regularly scheduled meeting. The City Council's decision is final.

~~13.16.590 APPEAL OF DEVELOPMENT FEES (Ord. 774, October 22, 1997).~~

~~Any person aggrieved by the imposition of a development fee may request a hearing before the city council by filing a written request with the city administrator setting forth his particular circumstances. The council may, at its discretion, alter the charge or the manner of payment thereof if unusual or exceptional circumstances justify such alteration. (Ord. 630, section 3(part), 1986; prior code section 5.040)~~

13.16.600 ENFORCEMENT OF PROVISIONS

1. In the event of violation of any provision in this chapter, the city may use any enforcement method or measure, including discontinuance of service or property lien, it deems appropriate, in addition to any penalties provided for in this code. (Ord. 774, October 22, 1997)

TITLE 13. MASTER UTILITIES PLAN

Explanation: ENFORCEMENT AND VIOLATIONS. The staff will work with the City Attorney in the next two weeks to clean up the Violation and Penalty sections. Each violation should be considered a “separate offense”. Violation of the water ordinance should be considered a misdemeanor, punishable by a fine. Jail time should be eliminated.

13.16.610 VIOLATION: PENALTY (Ord. 774, October 22, 1997)

1. It is unlawful for any person to open, cut into, or make any connection with any City water main or lines, or to tamper in any way with the public water system, including water mains, fire hydrants, valves, service lines, meters and appurtenances without permission of the City. ~~Council or of the superintendent of public works.~~
2. It is unlawful for any person to open any shutoff valve or other device so as to permit water to flow from the City mains or lines into any private main or line without the express permission of the City. ~~Council or of the superintendent of public works.~~
3. It is unlawful for any person to use water for a City fire hydrant for construction purposes or any other purpose without express permission of the City, which may ~~from the superintendent of public works, who may~~ make provisions for metering such use, set charges, or refuse such permission.
4. Violation of this section is deemed disorderly conduct and a misdemeanor, punishable by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment not to exceed one hundred (100) days, or by both such fine and imprisonment.

EXCERPT from GENERAL PENALTIES SECTION OF STAYTON MUNICIPAL CODE

1.32.970 VIOLATION: PENALTY

1. Except as otherwise set out specifically in this code, any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code or city ordinance is guilty of a violation.
2. Except in cases where a different punishment is set out by any city ordinance or this code, any person convicted of a violation under subsection 1. of this section shall be punished by a fine of not more than two hundred fifty dollars (\$250.00).
3. If any person has been convicted of a violation under subsection 1. of this section, at any time within two (2) years prior to any prosecution, such second or subsequent violation may be prosecuted as a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment.

TITLE 13. MASTER UTILITIES PLAN

4. The remedies provided in this section are cumulative and not exclusive. In addition to the penalties provided above and those specifically set out in particular sections of this code, the city, by and through its authorized personnel, may pursue any remedy provided by law including the institution of injunction, mandamus, abatement, or other appropriate proceeding to prevent, temporarily or permanently enjoin, or abate a code violation. (prior code section 1.500)

1.32.980 EACH ACT A SEPARATE VIOLATION

Whenever in this code an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required, or the failure to do an act is declared to be unlawful or an offense, each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly. (prior code section 1.510)

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.20

CONTROL OF CROSS CONNECTIONS

SECTIONS

13.20.610	Definitions
13.20.620	Cross-Connections Prohibited
13.20.630	Use of Backflow Prevention Assemblies
13.20.640	Cross-Connection Inspection
13.20.650	Fees
13.20.660	Installation Permits
13.20.670	Liability
13.20.680	Penalties
13.20.690	Separate Violations

13.20.610 DEFINITIONS

1. **AIR GAP SEPARATION:** The physical vertical separation between the free-flowing discharge end of a potable water supply pipeline and the open or non-pressure receiving vessel.
2. **Auxiliary Supply:** Any water source or system other than the City of Stayton Water System.
3. **APPROVED BACKFLOW PREVENTION ASSEMBLY:** an assembly to prevent cross-connections due to backpressure and back-siphonage. The assemblies must appear on the list of approved assemblies issued by the Oregon Health Authority.
4. **BACKFLOW OR BACK SIPHONAGE:** The flow of water or other liquids, mixtures, or substances into the distribution system of a potable water supply from any sources other than its intended source.
5. **CROSS CONNECTION:** Any actual or potential unprotected connection or structural arrangement between the public potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substances other than the intended potable water with which the system is supplied.
6. **DOUBLE CHECK VALVE ASSEMBLY:** An assembly of two independently acting check valves with shut-off valves on each side of the check valves and test cocks for checking the water tightness of each check valve.

TITLE 13. MASTER UTILITIES PLAN

7. **HEALTH HAZARD:** An actual or potential threat of contamination of a physical, chemical, or biological nature to the public potable water system.
8. **NON-HEALTH HAZARD:** An actual or potential cross connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water system.
9. **PUBLIC WORKS DIRECTOR:** The City of Stayton Public Works Director or designee.
10. **PURVEYOR:** The City of Stayton Public Works Department.
11. **REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY (R.P. Assembly):** Assembly for preventing backflow which has two check valves, a differential relief valve located between the two check valves, two shut-off valves, one on the upstream side and the other on the downstream side of the check valves, and four test cocks for checking the water tightness of the check valves and the operation of the relief valve.
12. **THERMAL EXPANSION:** The pressure created by the expansion of heated water. Thermal expansion will cause water to backflow into the potable water system.

Revision of 13.20.610 DEFINITIONS:

Definitions were modified or added as recommended by the Oregon Health Authority – Drinking Water Division.

13.20.620 CROSS-CONNECTIONS PROHIBITED

The installation or maintenance of a cross-connection which may endanger the water quality of the potable water supply system of the purveyor is unlawful and is prohibited. Any such cross-connection now existing or hereafter installed is hereby declared to be a public hazard and the same shall be abated. The control or elimination of cross-connections shall be in accordance with this ordinance and in compliance with Chapter 333 of the Oregon Administrative Rules for Public Drinking Water System.

The public works director will have the authority to establish requirements more stringent than State regulations if he deems that the conditions so dictate. The purveyor will adopt rules and regulations as necessary to carry out the provisions of this ordinance. The public works director is hereby authorized to enforce the provisions of this ordinance in the inspection of existing, new, and remodeled buildings. (Ord. 666, section 2, 1990)

TITLE 13. MASTER UTILITIES PLAN

13.20.630 USE OF BACKFLOW PREVENTION ASSEMBLIES

1. A water service connection will not be installed or maintained by the purveyor unless the water supply is protected as required by applicable provisions of state law and this ordinance. Water service to any premises will be discontinued by the purveyor if a backflow prevention assembly required by state law and/or this ordinance is not installed, tested, and maintained, or if it is found that a backflow prevention assembly has been removed or by-passed, or if an unprotected cross-connection exists on the premises. Water service will not be restored until such conditions or defects are corrected.
2. The premise owner's water piping system shall be open for inspection and testing at all reasonable times by authorized representatives of the purveyor to determine whether cross-connections, or other violations of these regulations, exist. When such a condition becomes known, the public works director may deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with the state and City statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.
3. Backflow prevention assemblies may be required under circumstances including, but not limited to, the following:
 - a. Premises having an auxiliary water supply;
 - b. Premises having cross-connections that are not correctable or intricate plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist;
 - c. Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure that cross-connections do not exist.
 - d. Premises having a history of cross-connections being established or re-established;
 - e. Premises on which any deleterious substance is handled in a manner that may permit entry of same into the public water supply, or where a cross-connection could reasonably be expected to occur. This will include the handling of process waters and cooling waters;

TITLE 13. MASTER UTILITIES PLAN

- f. Premises where materials of a toxic or hazardous nature are handled in such a way that if a backflow incident should occur, a health hazard might result;
 - g. The following types of facilities may fall into one of the above categories where a backflow prevention assembly is required to protect the public water supply. A backflow prevention assembly shall be installed at these facilities unless the purveyor determines that no hazard exists. See Chapter 333 of the Oregon Administrative Rules.
 - o Hospitals, mortuaries, clinics
 - o Laboratories
 - o Metal plating industries
 - o Piers and docks
 - o Sewage treatment plants
 - o Food or beverage processing plants
 - o Chemical plants using a water process
 - o Petroleum processing or storage plants
 - o Radioactive material processing plants or nuclear reactors
 - o Others specified by the purveyor
 - o Underground irrigation systems
4. The type of protective assembly required will depend on the degree of hazard which exists:
- a. An air-gap separation or a reduced-pressure-principle backflow prevention assembly shall be installed where the public water supply may be contaminated by a physical, chemical, biological, or radiological substance or matter that creates a health hazard.
 - b. A double check valve assembly or a reduced-pressure-principle backflow prevention assembly shall be installed where the public water supply may be impaired to a degree which does not create a health hazard but which does adversely affect the aesthetic qualities of the water.
5. Backflow prevention assemblies required by this ordinance shall be installed in accordance with OAR Chapter 333 and the Oregon Plumbing Specialty Code.
6. Backflow prevention assemblies required by this ordinance shall be assemblies approved by the Oregon Health Authority.
7. Provision and installation of backflow prevention assemblies, where required, will be the responsibility of the property owner.

TITLE 13. MASTER UTILITIES PLAN

8. It shall be the responsibility of the property owner at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once per year. In those instances where the public works director deems the hazard to be great enough he may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the property owner and shall be performed by a certified tester approved by the Oregon Health Authority. It shall be the duty of the public works director to see that these tests are completed in a timely manner. Backflow prevention assemblies shall be repaired, overhauled, or replaced at the expense of the property owner whenever said assemblies are found to be defective. Records of such tests, repairs, and overhaul shall be sent to the public works department.
9. Failure of the property owner to cooperate in the installation, maintenance, testing, or inspection of backflow prevention assemblies required by this ordinance or by state law shall be grounds for the termination of water service to the premises. (Ord. 666, section 3, 1990)

13.20.630 USE OF BACKFLOW PREVENTION DEVICE

Entire Section was modified to reflect changes from OAR Chapter 333 regarding backflow prevention and to try and simplify the language in the City's ordinance. The City is required to have a backflow program.

13.20.640 CROSS-CONNECTION INSPECTION

1. Inspections may be conducted on new and existing industrial, commercial, or other facilities which have been classified as hazardous and where it is reasonable to anticipate the potential for cross-connections as determined by the public works director. Such inspections will be made by the purveyor or his designee.
2. Inspections for the purpose of ascertaining whether cross-connections exist may be conducted at the discretion of the public works director on all new and existing buildings, structures, or improvements of any nature that may receive or are now receiving water through the City's water system. Such inspections will be made by the purveyor or his designee. (Ord. 666, section 4, 1990)

13.20.640 CROSS-CONNECTION INSPECTION

Modifies language to allow City discretion to inspect backflow devices when the type of industrial, commercial or other facility is classified as potentially hazardous for cross-connection and backflow of water from the site back into the City water system.

13.20 Control of Cross Connections

Revised April 2013

Mike Brash is the City's authorized backflow specialist and program manager.

TITLE 13. MASTER UTILITIES PLAN

13.20.650 FEES

Fees authorized pursuant to this Chapter will be set by resolution. (Ord. 666, section 5, 1990; Ord.874, section 45, 2004)

13.20.650	FEES	Authorizes setting fees by resolution.
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13.20.660 INSTALLATION PERMITS

If cross-connection control assemblies are found to be necessary, the owner of the property served must apply to the local building authority for a permit for the specific installation. (Ord. 666, section 6, 1990)

13.20.660	INSTALLATION PERMITS
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Clarifies that plumbing permits are issued by the “building authority” not by the “public works department”.

13.20.670 LIABILITY

This ordinance shall not be construed to hold the City responsible for any damage to persons or property by reason of the inspection or testing herein, or the failure to inspect or test or by reason of approval of any cross-connection. (Ord. 666, section 7, 1990)

13.20.680 PENALTIES

Each violation of the provisions of this chapter shall be punishable by a fine not to exceed \$500.00. (Ord. 666, section 8, 1990; Ord. 874, section 46, 2004)

13.20.690 SEPARATE VIOLATIONS

Each day that a violation of this ordinance continues shall constitute a separate violation. (Ord. 666, section 9, 1990)

Christine Shaffer

From: Randy Cranston [crc@wvi.com]
Sent: Thursday, November 10, 2011 1:54 PM
To: dwkinney@wvi.com; Christine Shaffer
Subject: Note from Randy Cranston

Hi Dave, Christine and Scott,

I just rec'd a final billing notice for a tenant that just moved and their outstanding bill is \$234.08. When their deposit is deducted, that leaves me with a potential liability of \$159.08. It would seem that the deposit level is insufficient to protect the product purchased. The average monthly bill is in excess of \$70 and shut off's occur after that and well beyond. If you don't have the water shut off when the deposit is used up (one month), then it seems like you are unduly penalizing the landlord with the a bill for a product that should have been withheld until past due was brought current. How do we go about either raising the deposit to cover the amount of water used prior to shut off or expediting the shut off time so it falls within the same dollar amount as the deposit? If I can assist in this in any way, please let me know. Thanks,

Randy Cranston

P.S. I don't have an email for Dave at the office or for Scott, so Christine, if you could forward this to their city emails, I would appreciate it. Thanks, R

*Randy Cranston 503-991-0424 Sublimity, Oregon
"Collector of Old Rusty Stuff" and
"Rescuer of Damsels in Distress"*

September 24, 2012

City of Stayton
Attn: Dave Kinney
362 N. 3rd Avenue
Stayton, Oregon 97383-1726

Dear Mr. Kinney:

Every month I receive notices indicating that renters' water and sewer bills are past due, and for which they often already owe more than their deposits will cover. Ultimately, I, as the landlord, am held legally responsible for these bills, which continue to rise until the city shuts the water off at each overdue property. I am required to pay for the ongoing usage by delinquent renters who continue to use their water and sewer, but are unable or unwilling to pay their final bills.

I do not experience this same inequity in Aumsville, simply because this city's required utility deposit of \$180 has, thus far, been sufficient to cover delinquent utility bills until the water/sewer are shut off by the city. Enclosed, please find five recent utility bills, illustrating that I am frequently required to pay for delinquent tenants' water and sewer usage, which is often above Stayton's current \$75 deposit fee.

As discussed this morning, by phone, I am asking that the city of Stayton raise its utility deposits to an amount high enough to cover these delinquencies. I would recommend a ballpark figure of approximately \$200. This will prevent landlords from being unfairly charged for renters' personal living expenses. Thank you very much for your consideration.

Sincerely,

Thomas R. Youmans
(503) 580-9294
995 Olney Street
Aumsville, Oregon 97325

1-18-13

RECEIVED
JAN 24 2013
CITY OF STAYTON

City of Stayton

Re: Renters Water Deposits

To Dave Kinney and City Council members:

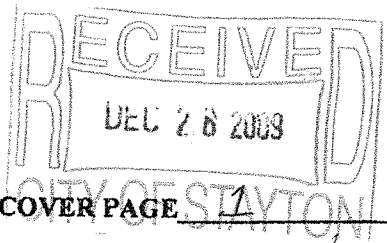
Each month I receive notice that renters water fees are over due. I know if this person moves, I am responsible to pay any out standing fees due.

I have talked to the city staff about increasing deposits, and turning water off before the bill exceeds the deposit. In January I have gotten two water bills. one for \$239⁸³ + the other \$209²⁶. I would like to see the deposit raised from \$75⁰⁰ to \$225⁰⁰.

Thank You

Jim Crowther

503-910-4848



FAX

DATE: 12-23-09

NO. OF PAGES INCLUDING COVER PAGE 1

TO: City of Stayton

FROM: G. Michael Gilham/Landlord

ATTN: SANDY

COMPANY: Mick & Morns Pub

PHONE: 503-769-3425

PHONE: 503-589-4035

FAX: 503-769-1456

FAX: (503) 589-1449 4035

COMMENT: Dear SANDY,

Thank you for your help in answering my questions Re: Landlord's Responsibilities on tenants final water bill. I have deep concerns about the current 75.00 deposit not being enough to cover the average \$ 250.00 To \$ 300.00 monthly usage at Mick & Morns Pub. I beg of you to put yourself in my position for a moment.

With the economic times as they are, loss of Rent is bad enough without suffering additional financial loss.

Please increase the Water deposit up to \$ 275.00 / 300.00, perhaps over a Two month period of time. It is also my understanding the final water bill at the Plaza was very slow in getting paid by David W. Perhaps this prudent action will address a future problem before it arises.

Thank you again for your intelligent & kind consideration.

Respectfully yours,
G. Michael Gilham Landlord.

Signature



From the desk of:
G. Michael Gilham
5361 Landon St SE
Salem, OR 97306

