

TITLE 13. MASTER UTILITIES PLAN

CHAPTER 13.16

WATER SERVICE

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13.16.300 PURPOSE

1. The purpose of this Chapter 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;

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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.

13.16.310 APPLICATION

1. Each applicant for water service shall complete an application form for utility service 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. (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.

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

All water mains, service connections, and water meters shall hereafter be laid on dedicated 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 LOCATION OF WATER SERVICE LINES AND WATER METERS

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.
2. Where the water main is in 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, provided that the length of service does not exceed sixty (60) feet.
3. If the length of the service line to the meter location exceeds sixty (60) feet 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 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.

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2. The customer shall own, install and maintain the private service line from the water meter to the building and/or 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)

13.16.370 CONNECTION CHARGES

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 City's costs. 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).

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)

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 establishment 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 may waive such requirements.
2. Each structure containing more than three (3) residential dwelling units or three (3) non-residential establishments will be served 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. (Prior code section 5.115)

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. 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 shall be charged double the usual consumption charge for the amount of water used. 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. (prior code section 5.147)

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, 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 any premises where the City determines there is a leak,

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excessive use or waste of water until repairs are made. (prior code section 5.150)

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 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)

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 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)
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.

13.16.440 WATER RATES, METERED SERVICE

1. Water rates are comprised of the four (4) 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, utility deposits and fees shall be established by separate resolution and will be effective on the date specified in the resolution. (Ord. 805, Sept. 7, 1999)

13.16.450 NON-RESIDENTIAL UTILITY DEPOSITS: WHEN REQUIRED

1. A utility deposit for water and sewer service shall be required of all persons requesting utility service at any non-residential premises.(Ord. 774, October 22, 1997)
2. The utility deposit shall bear no interest (Ord. 732, 9, October 1994).
3. Persons making the deposit will 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).
4. The amount of the utility deposit shall be set by separate resolution.

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13.16.460 NON-RESIDENTIAL UTILITY DEPOSITS: REFUNDS

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) 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. 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) 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).

13.16.470 NON-RESIDENTIAL UTILITY BILLS: RESPONSIBLE PARTY

1. Where more than a single building, building 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 UTILITY BILLS: WHEN DUE

All accounts for water and sewer service are due and payable 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 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 the customer/occupant and property owners on the first working day after delinquency occurs advising 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 Chapter 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 service address for which payment has not been made, not less than fourteen (14) 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).

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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.819, December 4, 2000).
- b. The City may assess a processing fee for delinquent accounts in addition to other penalties provided for in this Chapter. (Ord.819, December 4, 2000).
- c. The 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 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. 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 UTILITY BILLS: PROCEDURE FOR SHUTTING OFF WATER

Whenever water is shut off to any premises for non-payment of a utility bill, the following procedure shall apply:

1. Prior to shutting off water service an agent of the City shall advise the 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).
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, 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 SERVICE CHARGE (Ord. 774, October 22, 1997)

1. **CUSTOMER REQUESTED TEMPORARY TURN-OFF OF SERVICE:** The City shall charge a 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 service charge for each time the water service is turned on at the meter.
3. **ADDITIONAL CHARGES:** In addition to the turn-off or turn-on charge listed in subsections (1) and (2) of this section, the City shall 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.

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774, October 22, 1997)

13.16.520 RESIDENTIAL UTILITY DEPOSITS, WHEN REQUIRED (Ord. 774, October 22, 1997).

1. A utility deposit for water and 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 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).
4. The amount of the utility deposit shall be set by separate resolution.

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) 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).
4. If a customer is an owner/occupant, a new utility deposit may be waived when the 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 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 Chapter. 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 property owner is responsible for all delinquent billings, but is not responsible for any penalties assessed for delinquency by a renter, lessee or tenant.
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 utility bill remains unpaid thirty (30) days after it has been rendered, the lien thereby created may be foreclosed in any manner provided by law, this code or city ordinance.

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

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All accounts for water and sewer service are due and payable on the tenth day of each calendar month for all the previous months use.

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

1. Utility bills 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 the customer/occupant and property owners on the first working day after delinquency occurs advising 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 service address for which payment has not been made fourteen (14) 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.
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 processing fee for delinquent accounts in addition to other penalties provided for in this Chapter. (Ord. No. 819, December 4, 2000).
 - c. The 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 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. 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, the following procedure shall apply:

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1. Prior to shutting off water service, an agent of the City shall advise the 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, including service charges and fees, are 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 fee established by resolution, or the actual cost of labor and materials, whichever is greater, for notification, turn-off and restoration of the water service.

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 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 service charge for each time the water service is turned on at the meter.
3. ADDITIONAL CHARGES: In addition to the turn-off or turn-on charge referred to in subsections (1) and (2) of this Section, the City shall 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

13.16.590 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 waive fees, 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 all consumption. Upon verification of a leak, the Finance Director may approve a credit to the account for one-half the applicable consumption

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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.

13.16.600 CUSTOMER APPEAL PROCESS

1. Customers shall have the right to appeal utility billing decisions. 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 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.

13.16.610 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)

13.16.620 VIOLATION: PROHIBITED ACTIVITIES (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 the express permission of the City.
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.
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 make provisions for metering such use, set charges, or refuse such permission.

13.16.630 VIOLATION: PENALTIES

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1. Except as otherwise set out specifically in this code, any person violating any of the provisions or failing to comply with the requirements of this Chapter is guilty of a violation.
2. Except as otherwise provided in this Chapter, any person convicted of a violation of this Chapter 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 of this Chapter, at any time within two (2) years of such conviction, that person commits a second or subsequent violation, the person may be prosecuted as a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00).
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.

13.16.640 VIOLATION: EACH ACT A SEPARATE VIOLATION

Each day a violation continues constitutes a separate offense, and any person convicted of such offense shall be punished accordingly.