

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

- 15.04 House and Street Numbering System
- 15.08 Dangerous Buildings
- 15.12 Historic Landmarks
- 15.16 Systems Development Charges
- 15.20 Flood Damage Prevention Regulations

Chapter 15.04

HOUSE AND STREET NUMBERING SYSTEM

Sections:

- 15.04.010 Uniform numbering system.
- 15.04.020 Assigning and placing of numbers.
- 15.04.030 Size and location of numbers.
- 15.04.040 New buildings.
- 15.04.050 Change of address.
- 15.04.060 Enforcement.

15.04.010 Uniform numbering system.

There is hereby established a uniform system of numbering all houses and buildings fronting on all streets, avenues, alleys, and highways in the city of Mill City, Oregon.

A. In establishing said system, the city is divided into four general districts. First Avenue shall constitute the north and south base line from which the numbers on all houses and buildings running easterly and westerly from said street shall be extended each way, upon the basis of one number for each two feet of property frontage, wherever possible, starting at the base line with the number one hundred (100) and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon houses and buildings on the southerly side of streets, avenues, alleys, and highways, and all odd numbers shall be placed upon houses and buildings on the northerly side of said streets, avenues, alleys, and highways.

B. The east and west base line shall be: beginning at the west city limits on the north line of SW Spring Street extended northeast to SW Ash Street; the north line of SW Ash Street, extended easterly to a point of intersection with the abandoned railroad right-of-way (pedestrian trail); and then easterly along the north line of the abandoned railroad right-of-way (pedestrian trail) to the east city limits.

C. The numbers of all houses and buildings running north and south from said base line shall be extended north and south, upon the basis of one number for each two feet of property frontage, whe-

ever possible, starting at the base line with the number one hundred (100) and continuing with consecutive hundreds at each intersection, wherever possible; provided, however, that any houses on the river bank in the area directly north or south of the base line shall be given a number, starting with number one, on the north-south street from which they are approached.

D. All even numbers shall be placed upon houses and buildings on the easterly side of said streets, avenues, alleys and highways and all odd numbers upon houses and buildings on the westerly side of said streets, avenues, alleys and highways.

E. Address Grid Map. The planning commission shall prepare and maintain a "Mill City Addressing Grid Map" which complies with the requirements of this chapter.

F. Address Map. The city shall prepare and maintain a "Mill City Address Map" which shows the location of all properties and building addresses within the city limits. The city shall provide a copy of this map to utilities, the US Postal Service, and emergency service agencies each time the map is updated. (Ord. 312 § 1, 2003)

15.04.020 Assigning and placing of numbers.

A. The city administrator shall make the necessary survey and assign to each house and building located on any street in the city its respective number under the uniform system provided for in Section 15.04.010.

B. If the city administrator finds that a building does not have a building address posted as required by this chapter, the city shall notify the property owner that numbers must be posted. Such number or numbers shall be placed within fifteen (15) days after the city administrator has notified the property owner. The cost of the number or numbers shall be borne entirely by the owner or occupant of any house or building, except when the city council has authorized them to be paid for by the city. All such numbers shall conform to the specifications set forth in Section 15.04.030. (Ord. 312 § 4, 2003)

15.04.030 Size and location of numbers.

A. All numbers shall be placed on the front of each house or building so as to be easily seen and read from the street or public right-of-way. Said numbers shall be at least four inches in height and be constructed of reflective materials complying with OHSD and/or city public works standards.

B. All new buildings will either:

1. Provide lighting above or beside the number on the street side of the building so the number will be visible at night; or

2. Install a reflective building address sign at the edge of the driveway, street, alley or public right-of-way.

C. If a building number is not visible from the street or public right-of-way, the city administrator will require the property owner to install a reflective building address sign at the edge of the driveway, street, alley or public right-of-way.

D. It shall be the city administrator's duty to examine all new numbers and the location thereof. If, in the judgment of the city administrator, the size and location do not meet with the requirements of this article, then the property owner or agent therefor shall be notified and shall make such changes as the city administrator shall direct. (Ord. 312 § 5, 2003)

15.04.040 New buildings.

Whenever any new house, building or structure shall be erected in the city in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the duty of the owner or his agent to procure the correct number or numbers, as designated by the city administrator, for the said property. The said owner or agent shall immediately fasten the said number or numbers so assigned upon said house, building, or structure in the manner as provided in Section 15.04.030. No building permit shall be issued for any house, building, or structure until the owner or his agent has procured from the city administrator the official number of the premises. (Ord. 312 § 6, 2003)

15.04.050 Change of address.

Whenever the city administrator determines that a building has a posted building address that does not comply with this chapter, the city shall notify the property owner, utilities, US Postal Service, and emergency service agencies that the address will be changed effective on a date certain. The city will provide the property owner and/or occupant with new numbers to be posted. (Ord. 312 § 7, 2003)

15.04.060 Enforcement.

A. It shall be unlawful for any person to alter any building number which conforms to the provisions of this article. It shall also be unlawful knowingly to retain any number which is improper under the rules for numbering buildings set forth herein.

B. It shall be the duty of every police officer or other employee of the city to report all violations of this article to the city administrator. The city administrator shall cause the report to be investigated; and if such investigation reveals a violation of this article, the city administrator, or his/her designee, shall notify the owner, occupant, or person in charge of the building upon which such violation exists to correct such violation within ten (10) days. If such correction is not made, the city administrator, or his/her designee, shall cause it to be made and the cost thereof shall be assessed against the property in the manner prescribed for the costs of abating nuisances. (Ord. 312 § 8, 2003)

Chapter 15.08

DANGEROUS BUILDINGS

Sections:

- 15.08.010 Definitions.
- 15.08.020 Notice--Hearing--Assessment--Lien.
- 15.08.030 Abatement.
- 15.08.040 Violation--Penalty.

15.08.010 Definitions.

As used in this chapter:

“Dangerous building” means and includes any building or other structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus, or is for any other cause or reason especially liable to fire, and which building or structure is so situated or occupied as to endanger any other building or property or human life. The term also means and includes any building or structure containing any combustible or explosive material, rubbish, rags, waste, oils, gasoline, or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises, or to human life. The term also means and includes any building or structure which shall be kept or maintained or shall be in filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases. The term also means and includes any building or structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability or partial or entire collapse thereof.

“Person” means and includes any person or persons, firm or firms, corporation or corporations. (Ord. 70 §§ 1, 2, 1962)

15.08.020 Notice--Hearing--Assessment--Lien.

Whenever the mayor, marshal, city attorney, street commissioner, fire chief, or any councilmember shall find or be of the opinion that there is a dangerous building in the city, it shall be the duty of such person to report the same to the city council. Thereupon, the city council shall, within reasonable time, fix a time and place for a public hearing thereon. Notice shall be mailed to the owner of record of the premises whereon the building is located, by the city recorder, notifying the owner in general terms that a hearing will be held concerning the property, and the time and place thereof. At such time and place, or at such other time or times, or place or places as the council may adjourn to, the hearing shall be held, and the council shall determine by resolution whether or not the building is dangerous. The council may, as a part of the hearing, inspect the building, and the facts observed by the council at such inspection may be considered by it in determining whether or not the building is dangerous. At the hearing the owner or other person interested in the property or building shall have the right to be heard, if such owner or person requests the same. Ten (10) days' notice of such hearing shall be given publication in some newspaper published in the city, or by posting notices thereof in

three public places in the city, and, if the last mentioned notice is published or given as herein required, no irregularity or failure to mail notices shall invalidate the proceedings. At such hearing, the council shall have the power to order any building declared to be dangerous, removed and abated, if, in its judgment, such removal or abatement is necessary in order to remove the dangerous condition, or the council shall have the power to order the building made safe and to prescribe what acts or things must be done to render the same safe. Five days' notice of the findings and of any orders made by the council shall be given to the owner of the building, his or her agent, or other person controlling the same and, if the orders are not obeyed and the building rendered safe within the time specified in the order, being not less than five days, then the council shall have the power and duty to order the building removed or made safe at the expense of the property on which the same may be situated. In that event, the council must specify with convenient certainty the work to be done and shall file a statement thereof with the recorder and shall advertise for bids for the doing of the work in the manner provided for advertising for bids for street improvement work; and thereafter the bids shall be received, opened, and contract let; the council shall ascertain and determine the probable cost of the work, and assess the same against the property upon which the building is situated; the assessment shall be declared by an ordinance; and it shall be entered in the docket of city liens and shall thereupon be and become a lien against the property; and the creation of the lien and the collection and enforcement of the cost shall all be done and performed in substantially the same manner as in the case of the cost of street improvements, but irregularities or informalities in the procedures shall be disregarded. (Ord. 70 § 4, 1962)

15.08.030 Abatement.

Every building or part thereof which shall hereafter be found by the common council to be a dangerous building is declared to be a public nuisance, and the same may be abated either summarily or the procedure specified in Section 15.08.020 may be followed, or a suit for abatement thereof may be brought by the city in the circuit court of Linn or Marion County, depending on county in which property is located. (Ord. 70 § 5, 1962)

15.08.040 Violation--Penalty.

Any person who shall be the owner of, or shall be in possession of, or in responsible charge of any dangerous building within the city, and who shall knowingly suffer or permit any such building to be or remain dangerous for as long as ten (10) days after receipt of notice, as herein provided, shall be guilty of a violation of this chapter, and shall, upon conviction thereof in the recorder's court, be fined not to exceed one hundred dollars (\$100.00), or imprisoned not to exceed fifty (50) days, or both fined and imprisoned in the judgment of the court. (Ord. 70 § 3, 1962)

Chapter 15.12

HISTORIC LANDMARKS

Sections:

- 15.12.010 Purpose.
- 15.12.020 Register of historic landmarks--Established.
- 15.12.030 Designation procedure.
- 15.12.040 Designation criteria.
- 15.12.050 Landmark commission decision.
- 15.12.060 Removal of historic landmark from register.
- 15.12.070 Appeals.
- 15.12.080 Deed covenant.
- 15.12.090 Planning commission--Powers and duties.

15.12.010 Purpose.

The purpose of this chapter is to provide procedures for identification and preservation of significant historic landmarks located in Mill City. (Ord. 252 § 1, 1994)

15.12.020 Register of historic landmarks--Established.

The Mill City register of historic landmarks as established by Ordinance No. 238, dated June 7, 1993 is reaffirmed. The register is the official city list of significant historic landmarks which warrant protection. (Ord. 252 § 2 (part), 1994)

15.12.030 Designation procedure.

A. The property owner(s) will be sent notification if their property has been evaluated by the city planning commission as having potential historical significance.

B. A request for inclusion of an historic landmark on the register may be made by the owner of an historic resource or his or her authorized representative.

C. The planning commission shall hold a public hearing to review the request for inclusion of an historic landmark on the register.

D. Notice of public hearing shall be given not less than twenty-one (21) days nor more than twenty-eight (28) days prior to the date of the public hearing by one publication in a newspaper of general circulation in the city.

E. Written notice of the public hearing shall be mailed to the applicant, the owners of the affected property, the State Historic Preservation Office and the Department of Land Conservation and Development. Such notice shall be mailed not less than twenty-one (21) days nor more than twenty-eight (28) days before the scheduled public hearing. Failure of any party to receive mailed notice shall not invalidate any scheduled proceeding. (Ord. 252 § 2(1), 1994)

15.12.040 Designation criteria.

After public hearing, the planning commission shall include an historic landmark on the register if it finds that the resource possesses integrity of the original or historically evolved design and/or materials, and/or workmanship and if one or more of the following criteria apply:

- A. It exemplifies or reflects special elements of the cultural, social, economic, political, aesthetic, engineering or architectural history of Mill City, the North Santiam Canyon or the state;
- B. It is identified with persons or events significant in local, state or national history;
- C. It embodies distinctive characteristics of a style, type, period or method of construction;
- D. It is representative of the notable work of a builder, designer, engineer or architect; and
- E. It is representative of a type of style of construction that was once common and now is among the last examples surviving in the region or state. (Ord. 252 § 2(2), 1994)

15.12.050 Landmark commission decision.

Within thirty-five (35) days of the conclusion of the hearing, the planning commission shall either:

- A. Approve the request as submitted;
- B. Approve the request with modifications; or
- C. Deny the request. (Ord. 252 § 2(3), 1994)

15.12.060 Removal of historic landmark from register.

A. If an historic landmark has been demolished or destroyed, the planning commission may remove the resource from the register without first holding a hearing.

B. Requests for removal of an historic landmark from the register for any other reason other than demolition or destruction shall be reviewed according to the procedures of Section 15.12.030 for inclusion of a historic landmark on the register. To remove an historic landmark from the register, the planning commission must determine that the finding(s) made for inclusion on the register, as per Section 15.12.040 no longer apply.

C. Removal of an historic landmark from the register is a land use decision which must be consistent with statewide land use goal 5 and which is reviewable under the statewide planning goals. (Ord. 252 § 2(4), 1994)

15.12.070 Appeals.

Any decision made by the planning commission to approve or deny a request for inclusion of an historic landmark on the register, or to remove an historic landmark from the register, can be appealed to the city council.

A. An appeal may be initiated by the owner of an historic landmark or his or her authorized representative, or the city council may review the decision at its own request;

B. A notice of appeal or of a city council decision to review a request must be filed with the city recorder within twenty-one (21) days after the planning commission decision;

C. In the case of appeal, the notice filed by the appellant shall clearly state the grounds upon which the appeal is filed; and

D. The city council shall hold a hearing within forty-two (42) days of the planning commission decision;

E. Notice of the public hearing or meeting shall be published not less than twenty-one (21) days nor more than twenty-eight (28) days prior to the date of the public hearing by one publication in a newspaper of general circulation in the city. Written notice shall be mailed to the applications, the owners of the proposed designated historic landmark, the State Historic Preservation Office, and other persons who have requested such notice not less than twenty-one (21) days nor more than twenty-eight (28) days before the scheduled hearing. Failure of any party to receive mailed notice shall not invalidate any scheduled proceeding;

F. The designation criteria contained in Section 15.12.040 shall be used by the city council in making a decision on an appeal. The city council shall render a final determination in the matter within thirty-five (35) days of concluding the public hearing or meeting; and

G. A copy of the city council's decision shall be mailed within seven days of the decision to the appellant, the owner of the property involved, and other persons who have requested such notification. (Ord. 252 § 2(5), 1994)

15.12.080 Deed covenant.

Any property listed on the city register of historic landmarks shall have a covenant placed on the property's deed. The covenant shall specify the physical extent of the portion of the property listed on the city register of historic landmarks. The covenant shall acknowledge the historical significance of the property and acknowledge that the owners are entitled to the rights, benefits and obligations of the city register of historic landmarks. (Ord. 252 § 2(6), 1994)

15.12.090 Planning commission--Powers and duties.

A. Maintain the city inventory of historic landmarks as a depository of information about historic landmarks in the city and as a source of historic landmarks for inclusion on the city register of historic landmarks;

B. Receive and take action on requests to include a potential historic landmark on, or remove a listed resource from the city register of historic landmarks;

C. Review and act on permit applications for proposed alterations or demolitions of historic landmarks listed on the city register of historic landmarks;

D. Review and act on historic landmark district applications;

E. Review and comment on proposed land use actions and programs that may impact historic landmarks listed on the city register of historic landmarks;

F. Obtain up-to-date information on private, federal, and state historic preservation organization and agency activities and seek to maintain city programs that are consistent with these activities;

G. Recommend historic landmarks for nomination to the National Register of Historic Places to the State Historic Preservation Office;

H. Seek state, federal and other outside funding for historic landmark survey, planning, repair, maintenance, rehabilitation or restoration;

I. Receive and act on requests for monetary assistance for repair, maintenance, rehabilitation and restoration if funds are available for such work; and

J. Perform other duties relating to historic landmarks upon request of the city council. (Ord. 252 § 3, 1994)

Chapter 15.16

SYSTEMS DEVELOPMENT CHARGES

Sections:

- 15.16.010 Purpose.
- 15.16.020 Scope.
- 15.16.030 Definitions.
- 15.16.040 System development charge established.
- 15.16.050 Methodology.
- 15.16.060 Authorized expenditures.
- 15.16.070 Expenditure restrictions.
- 15.16.080 Improvement plan.
- 15.16.090 Collection of charge.
- 15.16.100 Delinquent charges--Hearing.
- 15.16.110 Waivers and exemptions.
- 15.16.120 Credits.
- 15.16.130 Notice.
- 15.16.140 Segregation and use of revenue.
- 15.16.150 Appeal procedure.
- 15.16.160 Prohibited connection.
- 15.16.170 Violation--Penalty.
- 15.16.180 Construction.

15.16.010 Purpose.

The purpose of this system development charge is to impose an equitable share of the costs of capital improvements for water supply treatment, storage, transmission, and distribution; wastewater collection treatment and disposal; storm drainage; streets; flood control; and parks upon those developments that create the need for or increase the demands on capital improvements. (Ord. 271 § 1, 1998)

15.16.020 Scope.

The systems development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord. 271 § 2, 1998)

15.16.030 Definitions.

For the purposes of this chapter the following mean:

“Capital improvements” means facilities or assets used for:

1. Water supply, storage, treatment and distribution;
2. Wastewater collection, treatment and disposal;
3. Drainage and flood control;

4. Transportation, including but not limited to streets, sidewalks, bike lanes and paths, street lights, traffic signs and signals, public transportation, vehicle parking, and bridges;

5. Parks and recreation, including but not limited to neighborhood parks, community parks, public open space and trail systems, buildings, courts, fields, and other like facilities.

“City” means all land area within the geographic boundaries of and subject to the jurisdiction of the city of Mill City, Linn and Marion Counties, Oregon.

“Development” means conducting a building or mining operation; making a physical change in the use or appearance of a structure or land; dividing land into two or more parcels (including partitions and subdivisions); and creating or terminating a right of access.

“Developer” means any person responsible for a development.

“Improvement fee” means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 15.16.040 of this chapter.

“Land area” means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

“Owner” means the owner or owners of record title or purchaser or purchasers under a recorded sale agreement, and other persons having an interest of record in the described real property.

“Parcel of land” means a lot, parcel, block, or other tract of land that is occupied or may be occupied by a structure or structures or other use; and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

“Permittee” means the person to whom a building permit, development, permit, a permit or plan approval to connect to the water or wastewater system is issued.

“Qualified public improvements” means a capital improvement that is:

1. Required as a condition of residential development approval;
2. Identified in the plan adopted pursuant to Section 15.16.080 of this chapter; and either:
3. Not located on or contiguous to a parcel of land that is the subject of the residential development approval; or

4. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related;

5. For purposes of this definition, “contiguous” means in a public way which abuts the parcel.

“Reimbursement fee” means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 15.04.40 of this chapter.

“System development charge” means a reimbursement fee, an improvement fee, or a combination thereof, assessed or collected at any of the time specified in Section 15.16.090 of this chapter. “System development charge” does not include connection or hook-up fees for sanitary sewers, storm drains, or water lines; such fees are designed by the city only to reimburse the city for actual or average costs for such connections. “System development charge” does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements of conditions imposed by a land use decision. (Ord. 271 § 3, 1998)

15.16.040 System development charge established.

A. System development charges shall be established and may be revised by resolution of the council. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.

B. Unless otherwise exempted by the provisions of this chapter or other local or state law, a systems development charge is imposed upon all development within the city, upon the act of making a connection to the water or wastewater system within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the water or wastewater facilities of the city. (Ord. 271 § 4, 1998)

15.16.050 Methodology.

A. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

B. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

C. The methodology used to establish the water and wastewater reimbursement fee shall be as shown as Attachment A of the ordinance codified in this chapter, on file in the office of the city recorder for public inspection.

D. The methodology used to establish the water and wastewater improvement fee shall be as shown in Attachment B of the ordinance codified in this chapter, on file in the office of the city recorder for public inspection.

E. The methodology used to establish a drainage, flood control, transportation, and parks and recreation improvement fee, or a reimbursement fee, or any combination of those fees, shall be contained in either an ordinance or a resolution by which the fee is established adopted by the council. (Amended during 2003 codification; Ord. 271 § 5, 1998)

15.16.060 Authorized expenditures.

A. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

B. Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to Section 15.16.080 of this chapter.

C. Notwithstanding subsections A and B of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the

costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures and costs of properly administering, collecting, and accounting for system development charges. (Ord. 271 § 6, 1998)

15.16.070 Expenditure restrictions.

A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 271 § 7, 1998)

15.16.080 Improvement plan.

The council shall adopt a plan that:

A. Lists the capital improvements that may be funded with improvement fees revenues;

B. Lists the estimated costs and time of construction of each improvement;

C. Describes the process for modifying the plan; and

D. In adopting this plan, the council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan, or similar plan that contains the information required by this section. (Ord. 271 § 8, 1998)

15.16.090 Collection of charge.

A. The system development charge is payable upon issuance of:

1. A building permit; or

2. A permit to connect to the water, wastewater or storm drainage systems.

B. If no building, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

C. If development is commenced or connection is made to the water, wastewater, or storm drainage systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

D. The city recorder shall collect the applicable system development charge when a permit that allows building or development of a parcel is issued or when a connection to the water or wastewater system of the city is made.

E. The city recorder shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments had been made pursuant to Section 15.16.110 of this chapter, or unless an exemption is granted pursuant to Section 15.16.120 of this chapter. (Ord. 271 § 9, 1998)

15.16.100 Delinquent charges--Hearing.

A. When a system development charge of twenty-five dollars (\$25.00) or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in twenty (20) semiannual installments, to include interest on the unpaid balance, in accordance with ORS 223.208.

B. The city recorder shall provide application forms for installment payments, which shall include a waiver of rights to contest the validity of the lien, except for the correction of computational errors.

C. An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

D. The city recorder shall establish the amount of the system development charge, the date on which the payments are due, the name of the owner, and the description of the parcel.

E. The city recorder shall docket the lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS Chapter 223. (Ord. 271 § 10, 1998)

15.16.110 Waivers and exemptions.

A. Structures and uses established and existing on or before 22 January 1992 are exempt from a system development charge, except water and wastewater charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or wastewater charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water or wastewater system.

B. Structures and uses on parcels which were not connected to the city wastewater system at the time of initial construction of the wastewater system in 1990 and 1991, and which are identified as "Not in Project" (NIP) on Exhibit C attached to the ordinance codified in this chapter and on file in the office of the city recorder for public inspection, are exempt from the wastewater systems development charge.

C. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

D. An alteration, addition, replacement, or change in use that does not increase the parcel's or structure's use of the public improvement facility are exempt from all portions of the system development charge.

E. A project financed by city revenues is exempt from all portions of the system development charge. (Amended during 2003 codification; Ord. 271 § 11, 1998)

15.16.120 Credits.

A. When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this section.

B. A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

C. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary of the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than sixty (60) days after acceptance of the improvement by the city.

D. When the construction of a qualified public improvement located in whole or in part on or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

E. Notwithstanding subsections C and D of this section, when establishing a methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.

F. Credits shall not be transferable from one development to another.

G. Credits shall not be transferable from one type of system development charge to another.

H. Credits shall be used within ten (10) years from the date the credit is given. (Ord. 271 § 12, 1998)

15.16.130 Notice.

A. The city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least ninety (90) days prior to the first hearing to establish or modify a system development charge. The methodology supporting the systems development charge shall be available at least sixty (60) days prior to the first hearing to establish or modify a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city.

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

C. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge if the change in amount is based on the periodic application of an adopted specific cost index or on a modification to any of the factors related to rate that are incorpo-

rated in the established methodology and therefore, the notice requirements of Section 15.16.030(A)--(B) are not required. (Ord. 292 § 1, 2002; Ord. 271 § 13, 1998)

15.16.140 Segregation and use of revenue.

A. All funds from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in Section 15.16.060 of this chapter.

B. The city recorder shall provide the council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected and the projects funded from each account. (Ord. 271 § 16, 1998)

15.16.150 Appeal procedure.

A. A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city recorder describing with particularity the decision of the city and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

B. Appeals of any other decision required or permitted to be made by the city recorder under this chapter must be filed within ten (10) days of the date of the decision.

C. After providing notice to the appellant, the council shall determine whether the city recorder's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions. If the council determines that there has been an improper expenditure of system development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the council shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

D. A legal action challenging the methodology adopted by the council pursuant to Section 15.16.050 shall not be filed later than sixty (60) days after adoption. A person shall contest the methodology used for calculating a system development charge only as provided in ORS 34.010 to ORS 34.100, and not otherwise. (Ord. 271 § 15, 1998)

15.16.160 Prohibited connection.

No person may connect to the water or wastewater systems of the city unless the appropriate system development charge has been paid; or an exemption has been granted in accordance with Section 15.16.110 of this chapter; or the lien or installment payment method has been applied for and approved. (Ord. 271 § 16, 1998)

15.16.170 Violation--Penalty.

Violation of Section 15.16.160 of this chapter is punishable by a fine not to exceed one thousand dollars (\$1,000.00). (Ord. 271 § 17, 1998)

15.16.180 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter. (Ord. 271 § 18, 1998)

Chapter 15.20

FLOOD DAMAGE PREVENTION REGULATIONS

Sections:

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15.20.020 Purpose.

Article II. Definitions and General Provisions

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15.20.080 General standards.

15.20.090 Specific standards.

15.20.100 Floodways.

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

15.20.010 Statutory authorization.

The Legislature of the State of Oregon has in ORS 197 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city ordains as follows in this chapter. (Ord. 225 § 1.1, 1998)

15.20.020 Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 225 § 1.3, 1998)

Article II. Definitions and General Provisions

15.20.030 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Area of special flood hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

“Development” means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at Section 15.20.090(A)(2) of this chapter.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one

hundred eighty (180) consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

“New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. (Ord. 225 § 2.0, 1998)

15.20.040 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. (Ord. 225 § 3.1, 1998)

15.20.050 Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Mill City,” dated March 1979, with accompanying flood insurance maps is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at City Hall, 252 Cedar Street, Mill City, Oregon. (Ord. 225 § 3.2, 1998)

Article III. Administration

15.20.060 Development permit required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.20.050 of this chapter. The permit shall be for all structures including manufactured homes, as set forth in the Section 15.20.030 of this chapter, and

for all development including fill and other activities, also as set forth in Section 15.20.030 of this chapter. (Ord. 225 § 4.1, 1998)

15.20.070 Building commissioner--Powers and duties.

A. The city administrator is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

B. Duties of the city administrator shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 15.20.100(A) of this chapter are met.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.20.050 of this chapter, the city administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 15.20.090 and 15.20.100 of this chapter. (Ord. 339 § 7, 2006; Ord. 225 §§ 4.2, 4.3, 1998)

Article IV. Provisions for Flood Hazard Reduction

15.20.080 General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source (Section 15.20.070(B)(2) of this chapter), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 225 § 5.1, 1998)

15.20.090 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.20.050 or 15.20.070(B)(2), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

- b. The bottom of all openings shall be no higher than one foot above grade;

- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.20.070(B)(2) of this chapter;
 4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;
 5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
- C. **Manufactured Homes.** All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 15.20.080(A)(2) of this chapter. (Ord. 225 § 5.2, 1998)

15.20.100 Floodways.

Located within areas of special flood hazard established in Section 15.20.050 of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV of this chapter. (Ord. 225 § 5.3, 1998)