


CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: September 11, 2017

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| AGENDA ITEM: | |
| Ordinance amending Chapter 14.07 of the Marysville Municipal Code to provide for reimbursement or credit against capital improvement charges and oversizing of sewer, water and stormwater mains. | |
| PREPARED BY: | DIRECTOR APPROVAL: |
| Jeff Laycock, City Engineer |  |
| DEPARTMENT: | |
| Public Works | |
| ATTACHMENTS: | |
| Ordinance (Changes Note in Red) Ordinance (Final) | |
| BUDGET CODE: | AMOUNT: |
| N/A | \$N/A |
| SUMMARY: | |
| <p>Chapter 14.07 of the Marysville Municipal Code (MMC) currently provides for (1) recovery contracts for construction of water or sewer facilities or (2) reimbursement from the City for oversizing water and sewer mains.</p> <p>The amendment would allow for credit against the capital improvement charges as an additional option for oversizing water, sewer and stormwater mains. Additionally, the amendment adds the option for reimbursement or credit against capital improvement charges for construction of sewer, water and stormwater infrastructure projects identified in the City's capital improvement plan.</p> | |

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| RECOMMENDED ACTION: |
| Staff recommends that Council authorize the Mayor to sign and execute the Ordinance amending Marysville Municipal Code (MMC) Chapter 14.07 to provide for reimbursement or credit against capital improvement charges and oversizing of sewer, water and stormwater mains. |

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 14.07 AND CHAPTER 14.16 OF
THE MARYSVILLE MUNICIPAL CODE TO PROVIDE FOR
REIMBURSEMENT FOR CERTAIN CAPITAL IMPROVEMENT
PROJECTS OR A CREDIT AGAINST CAPITAL IMPROVEMENT
CHARGES.**

WHEREAS, property owners or developers connecting into the City's water, sewer, or stormwater systems are required to construct facilities sufficient to serve their property/development; and

WHEREAS, the City imposes capital improvement charges on all new connections to water, sewer, and stormwater systems so that new users bear a fair proportion of the past costs of construction and maintenance of the City's systems and contribute to future capital improvement projects; and

WHEREAS, in certain situations the City may require construction of facilities that are greater than necessary to serve the property owner's or developer's property; and

WHEREAS, in certain situations the property owner or developer may be willing to construct infrastructure projects that are otherwise necessary to the City's continued efficient operation of its water, sewer, or stormwater systems; and

WHEREAS, the City Council believes that to the extent a property owner's or developer's project will benefit the general users of the City's water, sewer, or stormwater systems as opposed to the property owner or developer, the property owner or developer should not bear the full expense; and

WHEREAS, the City Council believes that the property owner or developer should be reimbursed or be granted a credit offsetting capital improvement charges for the value provided to the City's water, sewer, or stormwater systems in appropriate situations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 14.07.080 of the Marysville Municipal Code, entitled “Reimbursement for oversized water and sewer mains,” is hereby amended to read as follows:

MMC 14.07.080 Reimbursement for oversized water and sewer mains.

In all cases, the city engineer shall determine the size and depth of water and sewer mains connected to the city utility system. The determination shall be consistent with the city’s comprehensive plan and the long-range objectives for the water and sewer utility. If a property owner/developer of residential property is required to install a water main with a diameter in excess of eight inches or a sewer main with a diameter in excess of 10 inches, and if the purpose of such oversizing is to provide for future extension of the main to adjacent properties within the utility service area, and not merely to meet the needs of the property responsible for constructing the main, the city may reimburse the property owner/developer for the difference in material costs incurred solely by reason of the oversizing requirement. No such reimbursement shall be made except upon the following: complete installation of the water or sewer main and approval of the same by the city engineer; a submittal of a bill of sale and warranty for the water or sewer main to the city in accordance with MMC 14.03.420; submittal of bonding and proof of insurance as may be required by the City Engineer in accordance with MMC 14.03.430; certification of the oversizing costs, with such verification from the material supplier and contractor as the city engineer may require; approval of the oversizing costs by the city engineer; and approval of the reimbursement by the ~~city~~ City Council ~~Engineer~~. As an alternative to seeking reimbursement, the property owner/developer may request, and the City Engineer may grant, a credit, in the amount of the reimbursement that may otherwise be available, against the corresponding capital improvement charges imposed under MMC 14.07.010. For example, if a water main is oversized, a credit may be granted against the water capital improvement charge imposed under MMC 14.07.010, but not the sewer capital improvement charge.

Section 2. Section 14.07.090 of the Marysville Municipal Code, entitled “Recovery contracts,” is hereby amended to read as follows:

MMC 14.07.090 Recovery contracts.

(1) When an owner of real estate is required by MMC 14.01.050, 14.01.055, 14.03.250, 14.03.300, 14.03.310, 14.07.080, or any other ordinance, to improve or construct water or sewer facilities as a prerequisite to further property development, the provisions of Chapter 35.91 RCW shall apply. The owner must submit a written request on a form provided by the city for a contract to recover the cost of the improvement or construction of water or sewer facilities prior to

the approval of the water or sewer facility by the city. If an owner does not timely submit a written request, the city is not obligated to enter into a contract with the owner for the recovery of latecomer fees.

- (a) Within 120 days of completion of the water or sewer facility and its acceptance by the city, the owner of real estate must submit the total cost of the water or sewer facility to the city in a form acceptable to the city. This information will be used by the city to determine reimbursements by future users who will benefit from the water or sewer facility, but who did not contribute to the original cost of the water or sewer facility.
- (2) The city will determine the parcels which will directly benefit from the improvements and include those parcels in the assessment area.
- (3) The reimbursement share of all property owners in the assessment area shall be the pro rata share of the total cost of the project, less any contributions paid by the city. Each reimbursement share shall be determined by the city using a method of cost apportionment which is based upon the benefit received by each property from the project. This will generally be prorated on a front-footage basis, but the city may utilize another method of cost apportionment provided that the method assesses properties on a pro rata basis. The owner seeking a recovery contract shall not be reimbursed for the share of benefits which are allocated to its property.
- (4) A preliminary determination of area boundaries and assessments, along with a description of the property owner's rights and options, shall be forwarded by certified and first class mail to the property owners of record within the proposed assessment area. A property owner within the assessment area may request a hearing before the city council. Such request must be in writing and specify the relief sought. The request must be filed with the city clerk, the city attorney, and director of public works within 20 days of the mailing of the preliminary determination. After receiving a timely request for a hearing, notice shall be given to all property owners in the assessment area of the date, time, and location of the hearing. The city council's ruling shall be determinative and final.
- (5) The contract, upon approval by the city council, shall be recorded with the Snohomish County auditor within 30 days of such approval. The recorded contract shall constitute a lien against all real property within the assessment area which did not contribute to the original cost of the utility project.

(6) If, within a period of 20 years from the date the contract was recorded (or such other period provided for in the contract), any property within the assessment area applies for connection to the utility line, the lien for payment of the property's proportionate share shall become immediately due and payable to the city as a condition of receiving connection approval.

(7) All assessments collected by the city pursuant to a recovery contract, less the city's administrative charge, shall be paid to the original proponent, its personal representative, successors or assigns within 30 days after receipt by the city. The city's administrative charge for each collection is set forth in MMC 14.07.005.

(8) Nothing in this section, nor any provision in a recovery contract, shall be construed as establishing the city as a public utility in areas not already connected to the city's utility system, nor shall this section, or any recovery contract, be construed as establishing express or implied rights for any property owner to connect to the city's utility system without first qualifying for such connection by compliance with all applicable city codes and ordinances.

(9) In all cases, the city engineer shall determine the size and depth of water and sewer mains connected to the city utility system and the need to any pumps, lift stations, or other appurtenances. The determination shall be consistent with the city's comprehensive plan and the long-range objectives for the water and sewer utility. Where the city engineer determines that a property owner/developer of residential property is required to install a water main with a diameter in excess of eight inches or a sewer main with a diameter in excess of 10 inches, and if the purpose of such oversizing is to provide for future extension of the main to adjacent properties within the utility service area, and not merely to meet the needs of the property responsible for constructing the main, then the property owner ~~will~~ may be entitled to reimbursement or a credit against capital improvement charges, as provided under MMC 14.07.080.

Section 3. A new section 14.07.100, to be entitled "Reimbursement for construction of capital improvements," is hereby added to the Marysville Municipal Code to read as follows:

MMC 14.07.100 Reimbursement for construction of capital improvements.
The City's Comprehensive Plan identifies certain future City infrastructure projects needed for continued efficient operation of its water, sewer, and stormwater systems. In all cases, the City Engineer shall determine the location

and design of any infrastructure projects connected to the City's water, sewer, or stormwater systems. The City Engineer's determination shall be consistent with the City's Comprehensive Plan and long-range objectives for the water, sewer, and stormwater utilities. If a property owner/developer agrees to construct an infrastructure project identified in the City's Comprehensive Plan that provides water, sewer, or stormwater system capacity greater than that needed to meet the needs of the property responsible for constructing the project, the City may:

(1) Reimburse the property owner/developer for an amount not to exceed the costs incurred in constructing the project; or

(2) Grant the property owner/developer a credit against the corresponding capital improvement charges to be imposed against the property/project under MMC 14.07.010. The amount of any credit shall be the lesser of (i) the total costs incurred in constructing the project or (ii) the total of all corresponding capital improvement charges to be imposed against the property/project. Any credit may only be applied to corresponding capital improvement charges (i.e. construction of a water project may be credited against water capital improvement charges but not sewer or stormwater capital improvement charges).

No such reimbursement or credit shall be made except upon the following: complete construction of the infrastructure project and approval of the same by the City Engineer; submittal of a bill of sale and warranty for the infrastructure project to the City in accordance with MMC 14.03.420; submittal of bonding and proof of insurance as may be required by the City Engineer in accordance with MMC 14.03.430 or MMC 14.15.130; certification of the infrastructure project's costs, with such verification from the material supplier and contractor as the City Engineer may require; approval of the infrastructure project costs by the City Engineer; and approval of the reimbursement by the City Engineer.

Section 4. Section 14.16.120 of the Marysville Municipal Code, entitled "Oversizing reimbursement," is hereby amended to read as follows:

MMC 14.16.120 Oversizing reimbursement.

In all cases the ~~public works director or designee~~ City Engineer shall determine the size and depth of extensions to public storm drainage lines, whether they are on public or private property. The determination shall be consistent with the city's long-range plans for a regional storm drainage system. If a property owner/developer is required to install a storm drainage line with a diameter in excess of 18 inches, and if the purpose for such oversizing is to provide for future extension of the storm drainage line to adjacent properties and not merely to meet the needs of the property responsible for constructing the line, the city shall

reimburse the property owner/developer for the difference in material costs incurred solely by reason of the oversizing requirement. No such reimbursement shall be made except upon the following: complete installation of the storm drainage line and approval of the same by the ~~public works director or designee~~ City Engineer; a submittal of a bill of sale and a warranty for the storm drainage line to the city in accordance with MMC 14.03.420; submittal of bonding and proof of insurance as may be required by the City Engineer in accordance with MMC 14.15.130; certification of the oversizing costs, with such verification from the material supplier and contractor as the ~~public works director or designee~~ City Engineer may require; approval of the oversizing costs by the ~~public works director or designee~~ City Engineer; and approval of the reimbursement by the ~~city~~ City Council Engineer. As an alternative to seeking reimbursement, the property owner/developer may request, and the City may grant, a credit, in the amount of the reimbursement that may otherwise be available, against the stormwater capital improvement charges imposed under MMC 14.07.010.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

Section 6. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this ____ day of _____, 2017.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____

EDITED VERSION

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 14.07 AND CHAPTER 14.16 OF THE MARYSVILLE MUNICIPAL CODE TO PROVIDE FOR REIMBURSEMENT FOR CERTAIN CAPITAL IMPROVEMENT PROJECTS OR A CREDIT AGAINST CAPITAL IMPROVEMENT CHARGES.

WHEREAS, property owners or developers connecting into the City's water, sewer, or stormwater systems are required to construct facilities sufficient to serve their property/development; and

WHEREAS, the City imposes capital improvement charges on all new connections to water, sewer, and stormwater systems so that new users bear a fair proportion of the past costs of construction and maintenance of the City's systems and contribute to future capital improvement projects; and

WHEREAS, in certain situations the City may require construction of facilities that are greater than necessary to serve the property owner's or developer's property; and

WHEREAS, in certain situations the property owner or developer may be willing to construct infrastructure projects that are otherwise necessary to the City's continued efficient operation of its water, sewer, or stormwater systems; and

WHEREAS, the City Council believes that to the extent a property owner's or developer's project will benefit the general users of the City's water, sewer, or stormwater systems as opposed to the property owner or developer, the property owner or developer should not bear the full expense; and

WHEREAS, the City Council believes that the property owner or developer should be reimbursed or be granted a credit offsetting capital improvement charges for the value provided to the City's water, sewer, or stormwater systems in appropriate situations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

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Section 2. Section 14.07.090 of the Marysville Municipal Code, entitled “Recovery contracts,” is hereby amended to read as follows:

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the approval of the water or sewer facility by the city. If an owner does not timely submit a written request, the city is not obligated to enter into a contract with the owner for the recovery of latecomer fees.

(a) Within 120 days of completion of the water or sewer facility and its acceptance by the city, the owner of real estate must submit the total cost of the water or sewer facility to the city in a form acceptable to the city. This information will be used by the city to determine reimbursements by future users who will benefit from the water or sewer facility, but who did not contribute to the original cost of the water or sewer facility.

(2) The city will determine the parcels which will directly benefit from the improvements and include those parcels in the assessment area.

(3) The reimbursement share of all property owners in the assessment area shall be the pro rata share of the total cost of the project, less any contributions paid by the city. Each reimbursement share shall be determined by the city using a method of cost apportionment which is based upon the benefit received by each property from the project. This will generally be prorated on a front-footage basis, but the city may utilize another method of cost apportionment provided that the method assesses properties on a pro rata basis. The owner seeking a recovery contract shall not be reimbursed for the share of benefits which are allocated to its property.

(4) A preliminary determination of area boundaries and assessments, along with a description of the property owner's rights and options, shall be forwarded by certified and first class mail to the property owners of record within the proposed assessment area. A property owner within the assessment area may request a hearing before the city council. Such request must be in writing and specify the relief sought. The request must be filed with the city clerk, the city attorney, and director of public works within 20 days of the mailing of the preliminary determination. After receiving a timely request for a hearing, notice shall be given to all property owners in the assessment area of the date, time, and location of the hearing. The city council's ruling shall be determinative and final.

(5) The contract, upon approval by the city council, shall be recorded with the Snohomish County auditor within 30 days of such approval. The recorded contract shall constitute a lien against all real property within the assessment area which did not contribute to the original cost of the utility project.

(6) If, within a period of 20 years from the date the contract was recorded (or such other period provided for in the contract), any property within the assessment area applies for connection to the utility line, the lien for payment of the property's proportionate share shall become immediately due and payable to the city as a condition of receiving connection approval.

(7) All assessments collected by the city pursuant to a recovery contract, less the city's administrative charge, shall be paid to the original proponent, its personal representative, successors or assigns within 30 days after receipt by the city. The city's administrative charge for each collection is set forth in MMC 14.07.005.

(8) Nothing in this section, nor any provision in a recovery contract, shall be construed as establishing the city as a public utility in areas not already connected to the city's utility system, nor shall this section, or any recovery contract, be construed as establishing express or implied rights for any property owner to connect to the city's utility system without first qualifying for such connection by compliance with all applicable city codes and ordinances.

(9) In all cases, the city engineer shall determine the size and depth of water and sewer mains connected to the city utility system and the need to any pumps, lift stations, or other appurtenances. The determination shall be consistent with the city's comprehensive plan and the long-range objectives for the water and sewer utility. Where the city engineer determines that a property owner/developer of residential property is required to install a water main with a diameter in excess of eight inches or a sewer main with a diameter in excess of 10 inches, and if the purpose of such oversizing is to provide for future extension of the main to adjacent properties within the utility service area, and not merely to meet the needs of the property responsible for constructing the main, then the property owner may be entitled to reimbursement or a credit against capital improvement charges, as provided under MMC 14.07.080.

Section 3. A new section 14.07.100, to be entitled "Reimbursement for construction of capital improvements," is hereby added to the Marysville Municipal Code to read as follows:

MMC 14.07.100 Reimbursement for construction of capital improvements.

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and design of any infrastructure projects connected to the City's water, sewer, or stormwater systems. The City Engineer's determination shall be consistent with the City's Comprehensive Plan and long-range objectives for the water, sewer, and stormwater utilities. If a property owner/developer agrees to construct an infrastructure project identified in the City's Comprehensive Plan that provides water, sewer, or stormwater system capacity greater than that needed to meet the needs of the property responsible for constructing the project, the City may:

- (1) Reimburse the property owner/developer for an amount not to exceed the costs incurred in constructing the project; or
- (2) Grant the property owner/developer a credit against the corresponding capital improvement charges to be imposed against the property/project under MMC 14.07.010. The amount of any credit shall be the lesser of (i) the total costs incurred in constructing the project or (ii) the total of all corresponding capital improvement charges to be imposed against the property/project. Any credit may only be applied to corresponding capital improvement charges (i.e. construction of a water project may be credited against water capital improvement charges but not sewer or stormwater capital improvement charges).

No such reimbursement or credit shall be made except upon the following: complete construction of the infrastructure project and approval of the same by the City Engineer; submittal of a bill of sale and warranty for the infrastructure project to the City in accordance with MMC 14.03.420; submittal of bonding and proof of insurance as may be required by the City Engineer in accordance with MMC 14.03.430 or MMC 14.15.130; certification of the infrastructure project's costs, with such verification from the material supplier and contractor as the City Engineer may require; approval of the infrastructure project costs by the City Engineer; and approval of the reimbursement by the City Engineer.

Section 4. Section 14.16.120 of the Marysville Municipal Code, entitled "Oversizing reimbursement," is hereby amended to read as follows:

MMC 14.16.120 Oversizing reimbursement.

In all cases the City Engineer shall determine the size and depth of extensions to public storm drainage lines, whether they are on public or private property. The determination shall be consistent with the city's long-range plans for a regional storm drainage system. If a property owner/developer is required to install a storm drainage line with a diameter in excess of 18 inches, and if the purpose for such oversizing is to provide for future extension of the storm drainage line to adjacent properties and not merely to meet the needs of the property responsible for constructing the line, the city shall reimburse the property owner/developer for the

difference in material costs incurred solely by reason of the oversizing requirement. No such reimbursement shall be made except upon the following: complete installation of the storm drainage line and approval of the same by the City Engineer; submittal of a bill of sale and a warranty for the storm drainage line to the city in accordance with MMC 14.03.420; submittal of bonding and proof of insurance as may be required by the City Engineer in accordance with MMC 14.15.130; certification of the oversizing costs, with such verification from the material supplier and contractor as the City Engineer may require; approval of the oversizing costs by the City Engineer; and approval of the reimbursement by the City Engineer. As an alternative to seeking reimbursement, the property owner/developer may request, and the City may grant, a credit, in the amount of the reimbursement that may otherwise be available, against the stormwater capital improvement charges imposed under MMC 14.07.010.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

Section 6. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2017.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____