

**ORDINANCE NO. 878**

**AN ORDINANCE AMENDING SCAPPOOSE MUNICIPAL CODE CHAPTER 3.20,  
ADVANCE FINANCING REIMBURSEMENT SYSTEM**

**WHEREAS**, the City allows for the formation of Advance Finance Reimbursement Districts by following the directions included in SMC 3.20; and

**WHEREAS**, City Staff noted the need for amendments to the language in SMC 3.20 during its most recent use by Council to create a District; and

**WHEREAS**, City Council finds that the amendments are in the public interest.

**NOW THEREFORE, THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:**

**Section 1.** Scappoose Municipal Code 3.20 is hereby amended as described in Exhibit "A", attached hereto and hereby incorporated by reference.

**Section 2.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 3.** This ordinance is effective 30 days after passage.


**PASSED AND ADOPTED** by the City Council this 18<sup>th</sup> day of March, 2019, and signed by me in authentication of its passage.

**CITY OF SCAPPOOSE, OREGON**

  
\_\_\_\_\_  
Scott Burge, Mayor

First Reading: March 4, 2019  
Second Reading: March 18, 2019

Attest:

  
\_\_\_\_\_  
Susan Reeves, City Recorder

## EXHIBIT A

(Language to be omitted is ~~strikethrough~~, language additions are **double underlined in bold**)

### Sections:

- 3.20.010 Purpose.
- 3.20.020 Definitions.
- 3.20.030 ~~Receipt of application.~~ **Application.**
- 3.20.040 ~~City staff analysis.~~ **Report.**
- 3.20.050 Public hearing.
- 3.20.060 ~~Notification.~~ **Notice.**
- 3.20.070 ~~Advance financing~~ **Resolution** and ~~Agreements.~~ **Agreements.**
- 3.20.080 ~~Advance financed reimbursement.~~ **Notice of Adoption of Resolution.**
- 3.20.090 ~~Rates of reimbursement.~~ **Approval of Cost Amount.**
- 3.20.100 ~~Collection.~~ **Advance Finance Reimbursement.**
- 3.20.110 ~~Disposition of advance financed reimbursements.~~ **Payment to Developer.**
- 3.20.120 Recording.
- 3.20.130 ~~Ownership of public improvements.~~ **Public Improvements.**
- 3.20.140 Waiver of claims.
- 3.20.150 Other Fees and Charges.**

3.20.020 Definitions. The following are definitions for the purposes of this chapter and for the purposes of any advance financing agreement entered into pursuant hereto and for any actions taken as authorized pursuant to this chapter or otherwise:

~~“Advance financing” means a developer’s payment for the installation of one or more public improvements installed pursuant to this chapter which benefitting property owners may utilize upon reimbursing a proportional share of the cost of such improvement.~~

~~“Advance financing agreement” means an agreement between a developer and the city which provides for the installation of and payment for advance financed public improvements and for reimbursement by the intervening and future property owners who may eventually use such improvement.~~

~~“Advance financing resolution” means a resolution of the council designating a public improvement to be an advance financed public improvement and containing provisions for financial reimbursement by intervening and future property owners who eventually use the improvement and such other provisions as determined necessary by the council.~~

~~“City” means the city of Scappoose, Oregon.~~

~~“Council” means the common council of the city of Scappoose, Oregon.~~

~~“Developer” means the city, an individual, a partnership, a joint venture, a corporation, a sub-divider, a partitioner of land or any other public or private entity, without limitation, which will bear, under the terms of this chapter, the expenses or construction, purchase, installation, or other creation of a public improvement.~~

~~“Development” means that development project or property being developed by a developer for which the advance financing resolution is passed.~~

~~“Future property” means that real property which, by virtue of installation of oversized or over capacity advance financed public improvements, may be served, all or in part, by such improvement, but does not include the development or intervening property.~~

~~“Intervening property” means that real property abutting an advance financed public improvement, but does not include the development.~~

“Owner” means the holder of legal title to real property. Where such real property is being purchased under a recorded land sale contract, then such purchaser shall also be deemed an owner.

“Public improvement” means the following:

1. The grading, graveling, paving or other surfacing of any street; or opening, laying out, widening, extending, altering, changing the grade of or constructing any street;
2. The construction of sidewalks;
3. The construction or upgrading of a sanitary or storm sewer;
4. The construction or upgrading of a water supply system or facility;
5. Those “capital improvements” as provided in Oregon Revised Statutes 223.299(1) as now written or hereafter amended; and
6. Any other public improvement authorized by the council. (Ord. 643 §2, 1996)

Advance Financing. Payment by a developer for installation of one or more public improvements installed pursuant to sections 3.20.030 to 3.20.150 which intervening property owners may utilize upon reimbursing a proportional share of the cost of such public improvement to the developer.

Advance Financing Agreement. The agreement between a developer and the city which is authorized by the city council and executed by the city manager, providing for the installation of and payment for advance financed public improvements.

Advance Financing Reimbursement. The payment made by an intervening property owner to the city for utilization of an advance financed public improvement.

Advance Financing Resolution. A resolution adopted by the city council which designates a public improvement as an advance financed public improvement and which contains provisions for an advanced financing agreement between the developer and the city.

Developer. The city, another municipal corporation, an individual, a partnership, a joint venture, a corporation, or any other entity, without limitation, which bears the expense of construction, purchase or installation of an advance financed public improvement.

Development. The real property owned by the developer.

Intervening property. The real property contiguous to or served by an advance financed public improvement but not including the development or public rights-of-way.

Owner. The fee holder of record of the legal title to an intervening property or the purchaser under a recorded land sales contract.

Public improvement. Any construction, reconstruction or upgrading of a water, sanitary sewer or storm sewer line, public street (including bicycle lanes), sidewalk or undergrounding of public utilities.

Utilize. To apply for a building permit which will use or increase the use of an advance financed public improvement, to connect to an advance financed public improvement, or to otherwise increase the use of an advance financed public improvement. "Increase the use" means:

(1) For sanitary sewer or storm sewer lines: to make a physical change requiring a building or development permit on the intervening property which increases the volume discharged into the line.

**(2) For water lines: to make a physical change requiring a building or development permit on the intervening property which increases the amount of water used.**

**(3) For public streets: to make a physical change requiring a building or development permit on the intervening property which increases the trips on the street or creates a new entrance onto the street.**

3.20.030 Receipt of Application. A. The city will receive applications for advance financing from developers, which applications shall be submitted to the public works department and shall be accompanied by a fee of one hundred fifty dollars. The fee will be to defray the cost of city analysis of the proposed advance financing project, the cost of notifying property owners, recording costs and other administrative expenses. When the city or other public agency is the developer, the city manager may submit the application to the public works department without fee.

B. The application shall include the following:

1. A description of the location, type, size and cost of the public improvement to be advance financed.
2. A map showing intervening and future properties, front footage of intervening and future properties, the development, and a list of intervening and future property owners with current mailing addresses.
3. The estimated reimbursement amount from each intervening and future property based on the formula the formula proposed for reimbursement.
4. The estimated date of installation if it is a pre-installation application or the date the city accepted the public improvement if it is a post-installation application.
5. The estimated cost of the public improvement if it is a pre-installation application or the actual cost of the public improvement as determined by receipts, invoices and other documents satisfactory to the city engineer if it is a post-installation application.

C. The application may be submitted to the city prior to the installation of the public improvement but not later than 180 days after such installation. The city manager may grant one 90-day extension prior to the expiration of the 180-day period for good cause. (Ord. 742 §1, 2004; Ord. 643 §3, 1996)

**(1) An application shall be required from a developer for city council approval of advance financing of public improvements. The application must be submitted no later than 180 days after the public improvement is installed. The application shall be accompanied by a fee established by resolution sufficient to cover the cost of administrative review and notice pursuant to sections 3.20.040 to 3.20.060.**

**(2) The application shall include the following:**

**(a) A description of the location, type, size and cost of the public improvement to be advance financed.**

**(b) A map showing intervening properties, both front footage and total area computation of intervening properties, the development, and a list of intervening property owners with current mailing addresses.**

**(c) The estimated date of completed installation.**

**(d) The estimated cost of the public improvement.**

**(e) The estimated reimbursement amount from each intervening property.**

**(f) An acknowledgment by the developer that the application will be automatically withdrawn if the public improvements are tendered to and accepted by the city before the advance financing resolution is adopted and the advance financing agreement is entered into.**

**(g) A fee of \$250 or .001% of the total project cost, whichever is greater.**

**3.20.040 City staff analysis Report.** Upon receipt of the advance financing application, the public works department shall analyze the proposal and submit a report to the city manager for council review and public hearing. Such report shall include a map showing the location and dimensions of the development and all future and intervening properties. The report shall also include the city engineer's estimate of the total cost of the advance financed public improvement. The report shall also include the city engineer's analysis of whether the estimated actual cost of the public improvement is reasonable, the estimated advance financed reimbursement due from each intervening and future property owner, and whether the public improvements will or have met city standards.

(Ord. 742 §2, 2004; Ord. 643 §4, 1996)

**(1) Upon receiving the application, the city manager or designee shall review the advance financing proposal and submit a report to the city council for its review and discussion at a public hearing.**

**(2) The public hearing shall be scheduled no more than 90 days from the date a completed application with all required information is received. The hearing shall not be held and the application shall be deemed withdrawn if the public improvements are tendered to and accepted by the city 180 days prior to the hearing.**

**(3) The report shall include a map showing the location and area of intervening properties and of the development. The report shall also include the city engineer's or designee's analysis of whether the estimated cost of the public improvements is reasonable, and the estimated advance financed reimbursement due from each intervening property owner.**

**3.20.050 Public hearing.** Within a reasonable time after the public works department has completed its analysis, an informational public hearing shall be held in which all parties and the general public shall be given the opportunity to express their views pertaining to the proposed advance financed public improvement. Since advance financed public improvements do not give rise to assessments, the public hearing is for informational purposes only, and is not subject to mandatory termination due to remonstrances. The city council has the sole discretion after the public hearing to decide whether an advance financing resolution shall be adopted. (Ord. 742 §3, 2004; Ord. 643 §5, 1996)

**(1) Any person has the right to comment on the proposed advance financed public improvement and proposed reimbursement at the informational public hearing.**

**(2) Because an advance financed public improvement does not result in an assessment or lien, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The city council has the sole discretion after the public hearing to decide whether an advance financing resolution shall be adopted.**

**(3) The public hearing may not be continued past 180 days after the date of acceptance by the city of the advance financed improvement.**

**3.20.060 Notification Notice.** Not less than ten nor more than thirty days prior to the public hearing, the developer and all intervening and future property owners shall be notified of the hearing and the purpose

thereof. Such notification shall be accomplished by regular mail or by personal service. If notification is accomplished by mail, notice shall be effective on the date that the letter or notification is posted. Failure of any owner to be so notified shall not invalidate or otherwise affect any advance financing resolution. (Ord. 643 §6, 1996)

**(1) Notice of the application will be provided to the applicant and all intervening property owners at least 10 days before the hearing. Notice is effective when mailed. Failure of the developer or any intervening property owner to be sent or receive notice shall not invalidate or otherwise affect any advance financing resolution or the city council's action.**

3.20.070 Advance Financing Resolution and Agreements. A. After the public hearing held pursuant to Section 3.20.050, if the council decides that the application meets the purposes of this chapter, it may pass an advance financed financing resolution accordingly. The resolution shall designate the proposed improvement as an advance financed improvement and provide for advance financed reimbursement by intervening and future property owners pursuant to this chapter. The resolution shall designate and describe all intervening and future property subject to the resolution. When the developer is other than the city, the advance financing resolution shall instruct the city manager to enter into an agreement between the developer and the city pertaining to the advance financed improvement, which may require such guarantee or guarantees as the city manager deems necessary to protect the public and intervening and future property owners, and may include such other provisions as the city manager determines necessary and proper to carry out the purposes of this chapter. More than one public improvement may be the subject of a single advance financing agreement or resolution.

B. The city shall notify all intervening and future property owners and the developer of the adoption of an advance financing resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of this Chapter 3.20.

(Ord. 742 §4, 2004; Ord. 643 §7, 1996)

**(1) After the public hearing pursuant to Section 3.20.050, if the city council desires to proceed with an advance financed public improvement, it shall pass an advance financing resolution. The resolution shall designate the advance financed improvements and provide for advance financed reimbursement by intervening property owners pursuant to sections 3.20.020 to 3.20.150.**

**(2) The resolution shall state the methodology for determining the amount of advance financed reimbursements. The city shall adopt a methodology that requires payment in proportion to geographic area, taking into account the geographic area of all intervening properties and the development, unless the geographic area methodology is inequitable. In determining whether the methodology is equitable, the city council may, but is not required to, look at net developable acres.**

**(3) If the final costs of the advance financed improvements are known at the time of the resolution, the resolution shall set forth those costs, including interest. The resolution shall acknowledge any payment by an intervening property owner or agreement between intervening property owner and development that the city has notice of at the time the resolution is adopted.**

**(4) When the developer is an entity other than the City, the advance financing resolution shall instruct the city manager to enter into an agreement with the developer pertaining to the advance financed public improvements.**

**(5) The agreement shall be signed by both parties before the City accepts the advance financed improvements. The agreement shall contain the following provisions:**

**(a) The advance financed public improvements shall meet all applicable city standards.**

**(b) The total advance financed reimbursement shall not exceed the actual cost of public improvements.**

**(c) The developer shall guarantee the advance financed public improvement for a period of 18 months from the date of acceptance by the City.**

**(d) The developer shall indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense associated with the advance financed resolution and agreement.**

**(e) The developer shall acknowledge that the City is not obligated to collect the advance financed reimbursement from intervening property owners.**

**(f) Other provisions as the city council determines necessary and proper to carry out the provisions of Section 3.20.020 to 3.20.150.**

~~3.20.080 Advance financed reimbursement~~ **Notice of Adoption of Resolution.** An advance financed reimbursement obligation shall be imposed on all intervening and future property owners at such time as such owners apply for connection to advance financed facilities or apply for building permits for projects that use an advance financed public improvement. Such reimbursement shall be at the rates established in Section 3.20.090 of this chapter. (Ord. 643 §8, 1996)

**(1) The city shall notify all intervening property owners and the developer of the adoption of an advance financing resolution.**

**(2) The notice shall be sent by first class mail and shall include a copy of the resolution, the date it was adopted, and a short explanation of sections 3.20.020 to 3.20.150. The city shall record a copy of the resolution in the Columbia County Clerk deed records for each intervening property.**

~~3.20.090 Rates of reimbursement~~ **Approval of Cost Amount.** A. Intervening Property Owners.

~~The advanced reimbursement imposed on intervening property owners shall be calculated as described in Code Section 3.20.090 C.~~

~~Financing reimbursements for odd-shaped lots shall be individually established and consistent with the benefit received by the lot and the reimbursement required of other lots in the area.~~

~~B. Future Property Owners. The advance financed reimbursement imposed on future property owners shall be calculated as described in Code Section 3.20.090 C. Advance financing reimbursements for odd-shaped lots shall be individually established and consistent with the benefit received by the lot and the reimbursement required of other lots in the area.~~

~~C. Formula for calculating advance financed reimbursement. Advance financing reimbursement shall be calculated by one of the following three methods based on the method which the Council determines provides the most equitable reimbursement for all properties involved:~~

~~1. Benefit to the property method. Reimbursements may be based on the Equivalent Dwelling Unit (EDU). An Equivalent Dwelling Unit is defined as a single family residence located on a single lot of record. Where no specific project values are available, because no development proposal has been submitted, the following table shall be used to determine the number of EDU's applicable to any given property:~~

Land Use Designation	Net Density EDU/Acre
R-1	5.0
R-4	6.5
MH	7.0
A-1	20.0
C	9.09
EC	13.64
LI	4.55
HI	4.55

The calculation shall be: The total actual cost of the advance financed public improvements divided by the total number of EDU's applying to the advance financed public improvement including the development. If inequities are created by the strict implementation of the above formula, the council may modify the formula on a case-by-case basis.

2. Front footage method. The total actual cost of the advance financed public improvements multiplied by a percentage of front footage owned by the intervening or future property owner of the total front footage served by the advance financed public improvement including the development. If inequities are created by the strict implementation of the above formula, the council may modify the formula on a case-by-case basis.

3. Square footage method. The total actual cost of the advance financed public improvements multiplied by a percentage of the intervening or future property owner's percentage of ownership of the total acreage served by the advance financed public improvement including the development. If inequities are created by the strict implementation of the above formula, the council may modify the formula on a case-by-case basis.

D. For the purpose of this section, "total actual cost" may include interest payments and fees related to project loan financing. Thereafter the reimbursement calculated in section 3.20.090 (C)(1-3), may be increased by the rate of interest of any project loan plus a quarter of one percentage point annually from the date of completion of construction of development, or such percentage as council may from time to time set by resolution, multiplied by the number of EDU's served by each of the intervening or future lots.

(Ord. 752, 2004; Ord. 742 §5, 2004; Ord. 643 §9, 1996)

**(1) If the full costs of the advance financed improvements are not known when the advance financing resolution is adopted, the developer shall provide the city and all intervening property owners notice of the full amount of the costs within 10 business days of completion of the advance financed public improvements.**

**(2) Any noticed recipient may object to the cost by filing a written objection within 14 days with the City Manager.**

**(3) If no objections to the costs are received within 14 days of the notice, the costs as stated in the notice shall not be subject to challenge.**

**(4) If written objections are received, the amount of actual costs shall be determined by the city council after a public hearing.**



3.20.100 Collection Advance Finance Reimbursement. A. An advance financed reimbursement is immediately due and payable by intervening or future property owners upon their application for connection to an advance financed sewer or water facility or any building or development permit the result of which will be the use of any advance financed public improvement; provided however, that a building permit to add to or remodel an existing structure which does not increase the use of an advance financed street will not cause payment to be due. If connection is made or construction commenced without the above permits, then the advance financed reimbursement is immediately due and payable as of the earliest date that any such permit was required. No permit for connection or construction shall be issued until the required advance financed reimbursement is paid in full or otherwise processed pursuant to the terms of subsection B of this section. Whenever the full and correct advance financed reimbursement has not been timely paid and collected for any reason, the city manager shall report to the council the amount of the uncollected reimbursement, the description of the real property to which the reimbursement is attributable, the date upon which the reimbursement was due and the name or names of the intervening or future property owners. The council, by motion, shall then set a public hearing and shall direct the city manager to give notice of that hearing to each of those

intervening and future property owners, together with a copy of the city manager's report concerning the unpaid reimbursement, either in person or by certified mail. Upon public hearing, the council may accept, reject, or modify the city manager's report, and if it finds that any reimbursement is unpaid and uncollected, the council, by motion, may direct the city recorder to docket the unpaid and uncollected reimbursement in the city record of liens. Upon completion of the docketing, the city shall have a lien against the described land for the full amount of the unpaid advance financed reimbursement, interest, and the city's actual cost of serving notice upon the intervening or future property owners. The lien shall be enforced in the manner provided by Oregon Revised Statutes Chapter 223.

B. Whenever an advance financed reimbursement is due and collectable, the intervening or future property owner may apply, upon forms provided by the city manager, for the voluntary imposition of a lien upon a parcel for the full amount of the advance financed reimbursement and the payment of that lien in twenty equal semiannual installments including interest. The applicant must provide a certificate from a licensed title insurance company showing the identity and amount of all other liens of record against the property and a certificate from the county tax assessor showing the assessed valuation of the property. The city shall not permit a lien greater than the assessed value less the combined total principal balance and accrued interest on all prior liens. Upon receipt of such certificates and application, the city manager shall compute the amount of the advance reimbursement, the date upon which the reimbursement is due, the name or names of the applicant/owners and the description for the property. Upon receiving that report, the city recorder shall docket the lien in the city docket of liens. From the time that docketing is completed, the city shall have a lien upon that land for the amount of the charge and interest upon that charge at the rate established by the council for local improvement districts, which interest shall be the full and only compensation to the city for its administrative costs. The lien shall be enforced in the manner provided in Oregon Revised Statutes Chapter 223. (Ord. 643 §10, 1996)

**(1) Imposition. An advance financed reimbursement shall be imposed on all intervening properties, at such time as an intervening property owner or agent, employee or independent contractor or the intervening property owner, utilizes the advance financed improvements.**

**(2) Reimbursement Rate. The intervening property owner shall be liable for advance financing reimbursement calculated as follows:**

(a) The intervening property's proportionate share, as determined in the advance financing resolution, of the actual cost of the advance financed public improvement, increased by the current Prime Rate annual simple interest upon the anniversary of execution of the agreement, plus 1% for the City for Administrative costs.

(3) Collection. The advance financed reimbursement is immediately due and payable to the city by intervening property owners upon utilization of an advance financed public improvement. If connection is made or construction commenced without required city permits, then the advance financed reimbursement is immediately due and payable upon the earliest date that any such permit was required. No city permit of any kind for the intervening property shall be issued until the advance financed reimbursement is paid in full. As an alternative to payment through the City, an intervening property owner may pay the developer directly, provided that both the intervening property owner and developer report the payment to the City.

(4) Public Hearing for Unpaid Advance Financed Reimbursement. Whenever the full advance financed reimbursement has not been paid and collected for any reason after it is due, the city manager shall report to the city council the amount of the uncollected reimbursement, the legal description of the intervening property on which the reimbursement is due, the date upon which the reimbursement was due and the intervening property owner's name or names. The city council shall then, by motion, set a public hearing date and direct the city manager to give notice of that hearing to each of the identified intervening property owners, together with a copy of the city manager's report concerning the unpaid advance financed reimbursement. Such notice may be either by certified mail or personal service. At the public hearing, the city council may accept, reject or modify the city manager's report. If the city council accepts or rejects the city manager's report and determines that the advance financed reimbursement is due but has not been paid for whatever reason, the city may take any action including all legal or equitable means necessary to collect the unpaid amount. An unpaid advance financing reimbursement shall prohibit any issuance of permits by the city for the intervening property.

3.20.110 Disposition of advance financed reimbursements Payment to Developer. A. Developers shall receive a portion of advance financed reimbursements collected by the city pertaining to their advance financed public improvements. Such portions shall be delivered to the developer for a period of ten years from and after the date the applicable advance financing agreement has been executed. In addition, any developer, or the developer's heirs, successors or assigns, may apply at five-year intervals for two five-year extensions beyond the initial ten-year period. The portion of advance financed reimbursements to be paid to developers shall be calculated by multiplying the amount of advance financed reimbursement received by the city by the percentage of the development owned by the developer at the time the advance financing was paid. Such payments will be made by the city within ninety days of receipt of the advance financed reimbursements. All portions of the advance financed reimbursement, including interest, not paid to the developer under the terms of this chapter shall be retained by the city to be used for related system improvements as authorized from time to time by the council.

B. Notwithstanding the payment formula provided above, no developer shall receive both advance financing reimbursement and a credit against system development charge payments for oversizing of the same facility. An application for advance financing reimbursement shall, if approved, constitute a waiver of such system development charge credits. (Ord. 643 §11, 1996)

(1) Developers shall receive all advance financed reimbursement collected by the city for their advance financed public improvements. Such reimbursement shall be delivered to the developer for

**a period of 20 years from and after the date the advance financing agreement has been executed. Such payments shall be made by the city within 90 days of receipt of the reimbursements.**

3.20.120 Recording. All advance financing resolutions shall be recorded by the city in the deed records of Columbia County. Such resolution shall be notarized and shall identify the legal descriptions of the development, intervening properties, and future properties. Failure to so record shall not affect the legality of an advance financing resolution or agreement. (Ord. 643 §12, 1996)

**(1) The advance financing resolution and agreement shall be recorded by the city in the Deed Records of Columbia County, Oregon. Failure to record the resolution and agreement shall not affect the legality of an advance financing resolution or agreement.**

3.20.130 Ownership of Public Improvements. Public improvements installed pursuant to advance financing agreements shall become and remain the sole property of the city pursuant to the advance financing agreement. (Ord. 643 §13, 1996)

**(1) Public improvements installed pursuant to advance financing agreements shall become and remain the sole property of the city.**

3.20.140 Waiver of claims **Multiple Public Improvements**. No developer shall have any claim against the city in the event this chapter is, for any reason, found invalid or unlawful. An application for advance financing shall constitute a waiver of such claims. (Ord. 643 §14, 1996)

**(1) More than one public improvement may be the subject of an advance financing agreement or resolution.**

**3.20.150 Other Fees and Charges. (1) The advance financing reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city.**

Chapter 3.20

ADVANCE FINANCE REIMBURSEMENT SYSTEM

Sections:

- 3.20.010 Purpose.
- 3.20.020 Definitions.
- 3.20.030 Application.
- 3.20.040 Report.
- 3.20.050 Public hearing.
- 3.20.060 Notice.
- 3.20.070 Advance Financing Resolution and Agreements.
- 3.20.080 Notice of Adoption of Resolution.
- 3.20.090 Approval of Cost Amount.
- 3.20.100 Advance Financed Reimbursement.
- 3.20.110 Payment to Developer.
- 3.20.120 Recording.
- 3.20.130 Public Improvements.
- 3.20.140 Multiple Public Improvements.
- 3.20.150 Other Fees and Charges

3.20.010 Purpose. The purpose of this chapter is to provide a method of financial reimbursement to developers for a share of costs incurred in installation or construction of public improvements that will benefit intervening or future property owners. (Ord. 643 S1, 1996)

3.20.020 Definitions. The following terms are definitions that apply to this chapter and mean as follows:

Advance Financing. Payment by a developer for installation of one or more public improvements installed pursuant to sections 3.20.030 to 3.20.150 which intervening property owners may utilize upon reimbursing a proportional share of the cost of such public improvement to the developer.

Advance Financing Agreement. The agreement between a developer and the city which is authorized by the city council and executed by the city manager, providing for the installation of and payment for advance financed public improvements.

Advance Financing Reimbursement. The payment made by an intervening property owner to the city for utilization of an advance financed public improvement.

Advance Financing Resolution. A resolution adopted by the city council which designates a public improvement as an advance financed public improvement and which contains provisions for an advanced financing agreement between the developer and the city.

Developer. The city, another municipal corporation, an individual, a partnership, a joint venture, a corporation, or any other entity, without limitation, which bears the expense of construction, purchase or installation of an advance financed public improvement.

Development. The real property owned by the developer.

Intervening property. The real property contiguous to or served by an advance financed public improvement but not including the development or public rights-of-way.

Owner. The fee holder of record of the legal title to an intervening property or the purchaser under a recorded land sales contract.

Public improvement. Any construction, reconstruction or upgrading of a water, sanitary sewer or storm sewer line, public street (including bicycle lanes), sidewalk or undergrounding of public utilities.

Utilize. To apply for a building permit which will use or increase the use of an advance financed public improvement, to connect to an advance financed public improvement, or to otherwise increase the use of an advance financed public improvement. "Increase the use" means:

(1) For sanitary sewer or storm sewer lines: to make a physical change requiring a building or development permit on the intervening property which increases the volume discharged into the line.

(2) For water lines: to make a physical change requiring a building or development permit on the intervening property which increases the amount of water used.

(3) For public streets: to make a physical change requiring a building or development permit on the intervening property which increases the trips on the street or creates a new entrance onto the street.

3.20.030 Application. (1) An application shall be required from a developer for city council approval of advance financing of public improvements. The application must be submitted no later than 180 days after the public improvement is installed. The application shall be accompanied by a fee established by resolution sufficient to cover the cost of administrative review and notice pursuant to sections 3.20.040 to 3.20.060.

(2) The application shall include the following:

(a) A description of the location, type, size and cost of the public improvement to be advance financed.

(b) A map showing intervening properties, both front footage and total area computation of intervening properties, the development, and a list of intervening property owners with current mailing addresses.

(c) The estimated date of completed installation.

(d) The estimated cost of the public improvement.

(e) The estimated reimbursement amount from each intervening property.

(f) An acknowledgment by the developer that the application will be automatically withdrawn if the public improvements are tendered to and accepted by the city before the advance financing resolution is adopted and the advance financing agreement is entered into.

(g) A fee of \$250 or .001% of the total project cost, whichever is greater.

3.20.040 Report. (1) Upon receiving the application, the city manager or designee shall review the advance financing proposal and submit a report to the city council for its review and discussion at a public hearing.

(2) The public hearing shall be scheduled no more than 90 days from the date a completed application with all required information is received. The hearing shall not be held and the application shall be deemed withdrawn if the public improvements are tendered to and accepted by the city 180 days prior to the hearing.

(3) The report shall include a map showing the location and area of intervening properties and of the development. The report shall also include the city engineer's or designee's analysis of whether the estimated cost of the public improvements is reasonable, and the estimated advance financed reimbursement due from each intervening property owner.

3.20.050 Public hearing. (1) Any person has the right to comment on the proposed advance financed public improvement and proposed reimbursement at the informational public hearing.

(2) Because an advance financed public improvement does not result in an assessment or lien, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The city council has the sole discretion after the public hearing to decide whether an advance financing resolution shall be adopted.

(3) The public hearing may not be continued past 180 days after the date of acceptance by the city of the advance financed improvement.

3.20.070 Advance Financing Resolution and Agreements. (1)

After the public hearing pursuant to Section 3.20.050, if the city council desires to proceed with an advance financed public improvement, it shall pass an advance financing resolution. The resolution shall designate the advance financed improvements and provide for advance financed reimbursement by intervening property owners pursuant to sections 3.20.020 to 3.20.150.

(2) The resolution shall state the methodology for determining the amount of advance financed reimbursements. The city shall adopt a methodology that requires payment in proportion to geographic area, taking into account the geographic area of all intervening properties and the development, unless the geographic area methodology is inequitable. In determining whether the methodology is equitable, the city council may, but is not required to, look at net developable acres.

(3) If the final costs of the advance financed improvements are known at the time of the resolution, the resolution shall set forth those costs, including interest. The resolution shall acknowledge any payment by an intervening property owner or agreement between intervening property owner and development that the city has notice of at the time the resolution is adopted.

(4) When the developer is an entity other than the City, the advance financing resolution shall instruct the city manager to enter into an agreement with the developer pertaining to the advance financed public improvements.

(5) The agreement shall be signed by both parties before the City accepts the advance financed improvements. The agreement shall contain the following provisions:

(a) The advance financed public improvements shall meet all applicable city standards.

(b) The total advance financed reimbursement shall not exceed the actual cost of public improvements.

(c) The developer shall guarantee the advance financed public improvement for a period of 18 months from the date of acceptance by the City.

(d) The developer shall indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense associated with the advance financed resolution and agreement.

(e) The developer shall acknowledge that the City is not obligated to collect the advance financed reimbursement from intervening property owners.

(f) Other provisions as the city council determines necessary and proper to carry out the provisions of Section 3.20.020 to 3.20.150.

3.20.080 Notice of Adoption of Resolution. (1) The city shall notify all intervening property owners and the developer of the adoption of an advance financing resolution.

(2) The notice shall be sent by first class mail and shall include a copy of the resolution, the date it was adopted, and a short explanation of sections 3.20.020 to 3.20.150. The city shall record a copy of the resolution in the Columbia County Clerk deed records for each intervening property.

3.20.090 Approval of Cost Amount. (1) If the full costs of the advance financed improvements are not known when the advance financing resolution is adopted, the developer shall provide the city and all intervening property owners notice of the full amount of the costs within 10 business days of completion of the advance financed public improvements.

(2) Any noticed recipient may object to the cost by filing a written objection within 14 days with the City Manager.

(3) If no objections to the costs are received within 14 days of the notice, the costs as stated in the notice shall not be subject to challenge.

(4) If written objections are received, the amount of actual costs shall be determined by the city council after a public hearing.

3.20.100 Advance Financed Reimbursement. (1) Imposition. An advance financed reimbursement shall be imposed on all intervening properties, at such time as an intervening property owner or agent, employee or independent contractor or the intervening property owner, utilizes the advance financed improvements.

(2) Reimbursement Rate. The intervening property owner shall be liable for advance financing reimbursement calculated as follows:

(a) The intervening property's proportionate share, as determined in the advance financing resolution, of the actual cost of the advance financed public improvement, increased by the current Prime Rate annual simple interest upon the anniversary of execution of the agreement, plus 1% for the City for Administrative costs.

(3) Collection. The advance financed reimbursement is immediately due and payable to the city by intervening property owners upon utilization of an advance financed public improvement. If connection is made or construction commenced without required city permits, then the advance financed reimbursement is immediately due and payable upon the earliest date that any such permit was required. No city permit of any kind for the intervening property shall be issued until the



advance financed reimbursement is paid in full. As an alternative to payment through the City, an intervening property owner may pay the developer directly, provided that both the intervening property owner and developer report the payment to the City.

(4) Public Hearing for Unpaid Advance Financed Reimbursement.

Whenever the full advance financed reimbursement has not been paid and collected for any reason after it is due, the city manager shall report to the city council the amount of the uncollected reimbursement, the legal description of the intervening property on which the reimbursement is due, the date upon which the reimbursement was due and the intervening property owner's name or names. The city council shall then, by motion, set a public hearing date and direct the city manager to give notice of that hearing to each of the identified intervening property owners, together with a copy of the city manager's report concerning the unpaid advance financed reimbursement. Such notice may be either by certified mail or personal service. At the public hearing, the city council may accept, reject or modify the city manager's report. If the city council accepts or rejects the city manager's report and determines that the advance financed reimbursement is due but has not been paid for whatever reason, the city may take any action including all legal or equitable means necessary to collect the unpaid amount. An unpaid advance financing reimbursement shall prohibit any issuance of permits by the city for the intervening property.

3.20.110 Payment to Developer. (1) Developers shall receive all advance financed reimbursement collected by the city for their advance financed public improvements. Such reimbursement shall be delivered to the developer for a period of 20 years from and after the date the advance financing agreement has been executed. Such payments shall be made by the city within 90 days of receipt of the reimbursements.

3.20.120 Recording. (1) The advance financing resolution and agreement shall be recorded by the city in the Deed Records of Columbia County, Oregon. Failure to record the resolution and agreement shall not affect the legality of an advance financing resolution or agreement.

3.20.130 Public Improvements. (1) Public improvements installed pursuant to advance financing agreements shall become and remain the sole property of the city.

3.20.140 Multiple Public Improvements. (1) More than one public improvement may be the subject of an advance financing agreement or resolution.

3.20.150 Other Fees and Charges. (1) The advance financing reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city.