

Chapter 14.20
LATECOMER AGREEMENTS

Sections:

- 14.20.010 Purpose.
- 14.20.020 Definitions.
- 14.20.030 Rights, enforcement and nonliability of city.
- 14.20.040 Applicability.
- 14.20.050 Process.
- 14.20.060 Payment of assessment and removal of unauthorized connections or taps.
- 14.20.070 Severability.

14.20.010 Purpose.

To establish a uniform process for the administration of latecomer agreements in conformance with Chapters 35.91 and 35.72 RCW, applied for after the effective date of the ordinance codified in this chapter, to reimburse developers who utilize private funds to construct a public street, or utility improvements that cost more than \$100,000 as verified by the city public works director. The reimbursement shall be the pro rata share using a method of cost apportionment based on the benefit to the property owners for the cost of constructing and contract administration costs for said public improvements. Those properties determined to be within an assessment reimbursement area who did not contribute to the original cost of the project and subsequently developed their property within a 10-year period and at the time of development are not required to install similar improvements because they were provided by the original developer shall be required to enter into the latecomer agreement. The latecomer agreement shall be effective for a period no longer than 10 years after the final acceptance, by the city, of the constructed improvements. Upon the request of an affected property owner, the city council shall have discretion to authorize, or not authorize, latecomer agreements on a case-by-case basis. (Ord. 3259 § 1, 2005).

14.20.020 Definitions.

"Adjacent" means abutting on public roads, streets, rights-of-way, or easements in which street system improvements are installed or directly connecting to street system improvements through an interest in real property such as an easement or license.

"Assessment" means an equitable pro rata charge to be paid by an owner of property within the assessment reimbursement area for the cost of private construction of public street and/or utility system improvements made pursuant to city municipal codes.

"Assessment reimbursement area" means that area of all real property that may tap, drain to, or use street or utility system improvements that did not contribute to the original cost of said street or utility system improvements and that receives a special benefit from said improvements.

"Cost of construction (cost)" is the sum of the direct construction costs incurred to construct street and/or utility system improvements. The direct construction costs include, but are not limited to, all related design services, engineering, surveying, legal services, bonding costs, environmental mitigation, relocation and/or installation of street lights, relocation and/or installation of signage, acquisition of right-of-way and/or easements, government agency fees, testing services, inspection, plan review and approval, labor,

materials, equipment rental, and contractor and/or subcontractor fees or charges. Interest fees shall not be allowed to be included as a cost of construction. The cost of construction shall not include costs that will be reimbursed by other means, at the time of construction or development, such as impact fee credits or grants. Costs of construction that are eligible for impact fee credits and/or reimbursements shall be reduced by the amount of said impact fee credits and/or reimbursements.

"Development proposal" means the construction of any improvements requiring a building permit, a fill and grade permit, a utility permit or a right-of-way permit.

"Street system improvements" means public street and alley improvements made in existing or subsequently dedicated or granted rights-of-way or easements and any improvements associated therewith including, but not limited to, acquisition of rights-of-way and/or easements, design, engineering, surveying, inspection, grading, paving, installation of curbs, gutters, pedestrian facilities, bike lanes, and traffic control devices, relocation and/or construction of street lights, traffic control devices, signage and other similar improvements.

"Public works director," hereinafter referred to as "director," means the director of the public works department or his/her designee.

"Utility system improvements" means public sewer and storm drainage system improvements including, but not limited to, the acquisition of right-of-way and/or easements, design, engineering, surveying, inspection, testing, connection fees, and installation of improvements as required by the city and includes, but is not limited to the following:

- A. Sewer system improvements, including but not limited to treatment plants, gravity mains, lift stations, force mains, and telemetry systems; and
- B. Storm sewer system improvements, including, but not limited to water quality structures and systems, detention and retention facilities, and storm water collection and conveyance facilities. (Ord. 3259 § 1, 2005).

14.20.030 Rights, enforcement and nonliability of city.

- A. The city reserves the right to refuse to enter into any latecomer agreement or to reject any application therefor. All applications for latecomer agreements shall be made on the basis that the applicant releases and waives any claims for liability of the city in establishment, enforcement or collection of latecomer agreements. The city shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through latecomer agreements.
- B. It shall be the obligation of the applicant for a latecomer agreement to take whatever authorized means are available to enforce payment of latecomer agreements and applicants are hereby authorized to take such actions. (Ord. 3259 § 1, 2005).

14.20.040 Applicability.

This chapter is intended to apply to all street system improvements and all utility system improvements (subject to the limitation that as to street system improvements this chapter's applicability is limited to those improvements defined in Chapter 35.72 RCW) where the construction of such improvements are the result of a city of Mount Vernon ordinance or ordinances that require such improvements as a prerequisite to property development. Street system improvements constructed to comply with the city of Mount

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