

ORDINANCE NO. 2029

**ADOPTING MULTIPLE CODE AMENDMENTS TO THE CENTRAL POINT
MUNICIPAL CODE SECTIONS 11.04, 11.16, 11.20, 13.04 AND ADDING A NEW
SECTION 3.40 LIENS AND COLLECTIONS.**

RECITALS:

A. Section 4 of the Central Point Charter provides: Powers of the City. The City shall have all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities, as fully as though this charter specifically enumerated each of those powers.

B. the City desires to clarify the process for attachment of liens and collections; and

C. the City desires to provide flexibility in the remedies it pursues for collections of delinquent utilities, assessments and financing agreements.

D. Words ~~lined through~~ are to be deleted and **words in bold** are added.

Now therefore,

THE PEOPLE OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Chapters 11.04, of the Central Point Municipal Code are hereby amended as follows.

**Chapter 11.04
LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS**

Sections:

11.04.010 Chapter application and definitions.

11.04.020 Commencement of process for local improvements.

11.04.030 Notice of hearing.

11.04.040 Hearing--Improvement resolution.

11.04.050 Notice of proposed assessment.

11.04.060 Notice of final assessment.

11.04.070 Attachment of lien.

11.04.080 Interest rates and penalty fees.

11.04.090 Installment application.

11.04.100 Interest of assessments.

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11.04.170 Bancrofted assessment remedies.

11.04.180 Non-Bancrofted assessment remedies.

11.04.190 Collections/Foreclosure.

11.04.010 Chapter application and definitions.

This chapter applies to all city local public facility construction projects which are to be financed in whole or in part through special benefit assessments. As used in this chapter, the following terms are defined as follows unless a different meaning is clearly intended from the context:

A. "Actual cost" means all direct or indirect costs incurred by the city before assessment in order to undertake a local improvement. The term "actual cost" includes the portion of the total actual cost allocated to a particular lot. "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, and repair or replacement. Actual cost may include the salaries, wages and benefits payable to employees of the city to the extent the same are reasonably allocable to the work or services performed by the employees in connection with a local

improvement. However, as a condition to inclusion of any salaries, wages or benefits payable to employees of the city as costs of a local improvement, the city shall establish a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

B. "Bond issuance and administration costs" means all costs associated with issuance, registration, transfer and payment of bonds for long-term financing of assessments and systems development charges.

C. "Deferred improvement agreement" means an acknowledged and recorded agreement executed by a property owner which runs with the land in which the owner agrees that the city has jurisdiction to construct certain local improvements and assess a pro rata share of the cost against the owner's property described therein. A "deferred improvement agreement" may also contain a nonremonstrance agreement.

D. "Estimated assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the city's estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the costs to the property.

E. "Final assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property. Bond issuance costs shall be separately stated and shall not be entered on the lien docket unless and until the owner files an application to pay in installments. If bond issuance costs are added, the total amount shall then be deemed to comprise the "final assessment."

F. "Finance director" means the department head designated by the city manager to keep records of assessments and installment payments.

G. "Financing" means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement. Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the city's reasonable estimate of the financing costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

H. "Local improvement" means an improvement constructed by the city for which a special assessment may be made on property specially benefitted.

I. "Lot" means a platted lot or other contiguous parcel of land to which a single tax lot number has been assigned.

J. "Owner" means the owner of title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the county assessor of Jackson County, Oregon.

K. "Remonstrance" means the ability of a property owner to object to the formation of a local improvement district.

11.04.020 Commencement of process for local improvements.

A. Local improvement construction projects may be initiated in any of the following ways:

1. The city manager may initiate a local improvement project whenever in his or her judgment such project would be in the best interest of the city; or

2. The city council may initiate a local improvement project by motion passed at a regular or special meeting of the city council; or

3. Upon receipt of a petition signed by more than fifty percent of the owners of street frontage or area of real property in the proposed benefit district, filed with the city recorder, whereupon the city manager shall initiate the local improvement process.

B. After initiation of the local improvement process by one of the methods set forth above, the city manager shall direct city staff to prepare preliminary plans, specifications and estimates of costs for the proposed local improvement project. City staff may consult, as deemed necessary, with applicable professionals in preparing such preliminary findings.

C. Upon completion of the preliminary plans, specifications and cost estimates by city staff, the city manager shall present such findings to the city council. After reviewing the findings, the city council may, by resolution, declare its intention to pursue construction of a local improvement project and set a date for a public hearing to consider public input on the proposed local improvement.

D. No public hearing shall be required in the event that each and every property owner included in the area to be benefited and assessed in the local improvement area has signed the petition requesting construction of the local improvement. In that case, the city council may, by resolution and without a public hearing, order construction of the local improvement in the manner set forth in Section 11.04.040.

11.04.030 Notice of hearing.

A. Notice of the hearing on the proposed local improvement shall be given by publishing in a newspaper of general circulation within the city at least ten days prior to the date of the hearing.

B. The published notice shall:

1. Specify the time and place the council will hear and consider the views of parties who have an interest in or are aggrieved by the proposed improvement;
2. Describe the general location and nature of the improvement, the area within which property may be specially assessed as described in the resolution; and
3. Identify the place where the project documents are available for inspection and the requirements for submitting written materials for consideration by the council.

C. In addition to notice by publication, the city shall, at least ten days prior to the hearing, mail notice to the owners whose property is to be assessed at the addresses shown in the records of the county assessor.

D. The mailed notice shall:

1. State that the council is considering an assessment for local improvements,
2. Describe the general location and nature of the improvement,
3. Identify the place where the project documents are available for inspection,
4. State the formula for apportioning costs and the amount of the estimated assessment on the property of the owner to whom the notice is addressed, and
5. Specify the time and place the council will hear and consider objections or remonstrances to the proposed improvement and the requirements for submitting written materials for consideration by the council.

11.04.040 Hearing--Improvement resolution.

A. At the hearing, the council shall hear and consider objections and other representations made by owners, and shall hear and consider all other relevant information presented.

B. If the council determines that the proposed local improvement shall be made, it shall adopt a resolution ordering construction of the improvement. The resolution shall contain a legal description of the district and shall be recorded in the Official Records of Jackson County.

C. When the improvement has been so authorized, the city manager may invite bids or make other arrangements necessary for construction and any debt instruments may be issued for the cost thereof as provided by statute.

11.04.050 Notice of proposed assessment.

A. After the work is done and the actual cost determined, the city manager shall prepare the proposed assessments to the respective lots within the assessed district and file them in the office of the city. Notice of the proposed assessment shall then be mailed to the owner of each lot proposed to be assessed not less than ten days prior to the last day for filing written objections. The notice shall state the amount of the assessment proposed on the property, the date of the final hearing and shall specify a date by which written objections shall be filed with the city.

B. Written objections and supporting documents must be filed no later than five p.m. the day before the city council hearing. Objections filed shall state the grounds for the objection. At the final hearing, the council shall consider the objections and may adopt, correct, modify or revise the proposed assessments and shall by resolution finally determine the amount of the assessment to be charged against each lot within the area according to the special benefit accruing to it from the improvement and shall levy the final assessments.

11.04.060 Notice of final assessment.

Within fourteen (14) days after the final assessment has been levied by the council, the city shall cause notice of the final assessment to be mailed to the owner of each lot to be assessed. Publication of the notice is not required. The notice shall identify the local improvement for which the assessment was levied and the final assessment for each lot. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the city for payment of the final assessment in installments as provided in ORS 223.210. The notice shall also state that if neither payment in full within 30-days, nor an application for installment payments is made within 10 days, from the date of the notice, interest will be charged on the assessment from the date of adoption of the assessment resolution and the property assessed will be subject to foreclosure. The notice shall be sent by certified and regular mail or personally delivered to the owner of each lot or parcel to be assessed. The city may also post the assessments in three public places and/or publish in the newspaper of record.

11.04.070 Attachment of lien.

After enactment of the final assessment resolution, the finance director shall enter in the docket of city liens a statement of the amounts assessed against each lot, parcel of land, or portion of land, together with a description of the local improvement, the name of the owners, and the number and date of the assessment resolution. Upon entry in the city lien docket the amount entered shall become a lien against the respective lots, parcels of land, or portions of land that have been assessed for the improvement. All assessment liens of the city shall be superior and prior to all other liens or encumbrances on property as permitted by state law. The finance director may also record the assessment resolution in the Jackson County deed records.

~~Assessments shall become liens upon the properties assessed after the passage of the resolution levying them and entry in the city lien docket and shall be immediately due and payable.~~

11.04.080 Interest Rates and Penalty Fees.

The council may establish, in the assessment resolution, or by other resolution, interest rates, penalties, late payment charges, and collection charges on bonded and unbonded assessments. The interest rate shall take into account the city's financial and administrative costs relating to assessments, issuance of bonds and collection and as further provided under 11.04.100.

11.04.090 Installment Application.

A. A written application to pay in installments under the Bancroft Act shall be filed with the finance director within ten days after mailing of the notice of final assessment. However, an application may be accepted at the discretion of the finance director at any time unless the council has authorized foreclosure of the lien.

B. Bond issuance and administration costs shall be added to an assessment when the installment application is filed. Interest and billing charges shall be added to each assessment as they accrue. The city may enforce collection of the assessments in the manner prescribed by law.

C. Unless otherwise provided in the resolution levying the assessments, the application shall provide that the applicant agrees to pay the final assessment over a period of ten years from the date of assessment in equal semi-annual installments of principal plus interest on the unpaid balance, beginning six months after the date of assessment.

D. The application shall provide that the applicant acknowledges and agrees to pay interest at the rate provided by resolution on all unpaid assessments.

E. The application shall contain a statement, by lots or blocks, or other sufficient legal description, of the property of the applicant assessed for the improvement.

F. The application shall state that the applicant does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to cause the local improvement for which the assessment is levied and in the apportionment of the actual cost of the local improvement.

G. An owner who elects to file an application to pay in installments shall agree to pay an additional amount to be added to the assessment to recover bond issuance and administration costs. This amount shall be determined by the city council at the time it levies the assessment based on a reasonable estimate of bond issuance and administration costs.

H. An owner who elects to file an application to pay in installments shall agree to pay a billing charge to be added to each installment. The billing charge shall be a prorated share of the actual cost of billing and keeping records of installment payment accounts. The amount of the billing charge shall be determined from time to time by the finance director.

I. A payment schedule will not be issued for any lien under one thousand dollars.

11.04.100 Interest on assessments.

A. All nondelinquent assessments levied by the city upon real property for local improvements shall bear interest on the unpaid balance thereof from the date the assessment is due and payable at the rate specified as follows:

1. From the date of the assessment to the date of the Bancroft bonds, issued for the cost of the improvement, the rate shall not exceed the interim financing rate plus one and one-half percent.
2. From and after the date of the Bancroft bonds sold to finance the improvement, the rate shall not exceed the net effective interest rate on the Bancroft bond issue plus one and one-half percent.

B. Assessments in which no installment application has been filed, levied by the city upon real property for incurred charges, shall bear interest on the unpaid balance from the date the assessment is due and payable at the rate three percent above the recorded interest rate set forth in subsection A of this section.

C. An assessment shall be deemed delinquent if any payment is not made within one hundred eighty days after it becomes due and payable. Delinquent assessments shall bear interest on the unpaid balance from the date the assessment is due and payable at the rate three percent above the recorded interest rate set forth in subsection A of this section.

11.04.110 Mailing of notices.

When a notice is sent by mail to the owner of a lot affected by a proposed assessment or a final assessment, the notice shall be addressed to the owner or his agent according to the records of the county assessor.

11.04.120 Segregation of assessments.

A. The city may apportion a special assessment imposed upon a single tract or parcel of real property among all the parcels formed from a subsequent partition or other division of that tract or parcel, if the subsequent partition or division is in accordance with ORS 92.010 to 92.160 and is consistent with all applicable comprehensive plans as acknowledged by the Land Conservation and Development Commission under ORS 197.251. The proportionate distribution of a special assessment authorized under this

subsection may be made whenever the special assessment remains wholly or partially unpaid, and full payment or an installment payment is not due.

B. The city shall apportion a special assessment under this section when requested to do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the special assessment was originally levied.

C. Apportionment of a special assessment under this section shall be in accordance with an order or resolution of the city council. The order or resolution shall describe each parcel of real property affected by the apportionment, the amount of the assessment levied against each parcel, the owner of each parcel and such additional information as is required to keep a permanent and complete record of the assessments and the payments thereon. A copy of the order or resolution shall be filed with the finance director, who shall make any necessary changes or entries in the lien docket.

D. When a special assessment is being paid in installments under the Bancroft Bonding Act or ORS 268.485, 450.155, 450.897 or 451.530, if the special assessment is apportioned among smaller parcels of real property under this section, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment.

11.04.130 Application for segregation.

A. Application to segregate shall be filed with the finance director on a form to be furnished by the finance director. The application shall include:

1. A lot book report from a title company showing copies of the deeds and other instruments evidencing all ownerships, other interests, and legal descriptions of the parcels to be segregated.
2. The original and segregated tax lot numbers, original and segregated assessed valuations, names and addresses of the owners and all others having an interest in the property, and any other relevant information requested by the finance director.
3. An express waiver of defects, jurisdictional or otherwise, in the original assessment.

B. The application shall be accompanied by a fee to be established by city council resolution.

C. If the finance director finds that the application is complete and proper, it shall be submitted to the city council along with a proposed resolution prepared in accordance with Section 11.04.060. Copies of the proposed resolution shall be mailed to all persons shown by the application to have an interest in the property at least ten days prior to the

council meeting at which the resolution will be considered. The copy of the resolution shall be accompanied by a notice stating the date of the meeting and that all written objections filed with the finance director prior to the date of the meeting will be considered by the council. Oral objections will not be heard. (Ord. 1877 §1, 2006; Ord. 1855 §3(part), 2005).

11.04.140 Curative provisions.

An improvement assessment shall not be rendered invalid by any error, mistake, delay, omission, or irregularity in the proceedings, **or because the declaring resolution, the assessment resolution, the lien docket or required notices do not contain the required information; or by the failure to list the name of, or mail notice to, the owner of any property as required by this Chapter; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps specified.** The provisions of Sections 11.04.010 through 11.04.130 shall be directory and not jurisdictional.

11.04.150 Errors in Assessment Calculations.

Alleged errors in the calculation of assessments shall be brought to the attention of the manager, who shall determine whether there has been an error in fact. If the manager finds that there has been an error, the manager shall recommend to the council an amendment to the assessment resolution to correct the error. Upon adoption of the amendment, the manager shall make the necessary correction in the docket of city liens and mail correct notices of assessment to affected property owners.

~~11.04.130 Foreclosure of liens.~~

~~All city assessment liens may be foreclosed in accordance with the procedures of ORS 223.505 to 223.650. Notice by personal service upon the property owner is not required prior to foreclosure except as provided in ORS 223.635. (Ord. 1855 §3(part), 2005).~~

11.04.160 Duties of finance director.

The finance director shall be custodian of the lien dockets and shall be charged with keeping records concerning bonded liens and assessments. (Ord. 1855 §3(part), 2005).

11.04.170 Bancrofted Assessment Remedies.

A. Before property owners are issued property related permits, owners must make all Bancrofted assessment accounts current for all their accounts with the city. Bancrofted assessment accounts must be current prior to individual sales of property.

1. Property related permits include development permits, building permits, wastewater permits, water permits, stormwater permits, driveway permits, sidewalk permits, and street opening permits.

2. To make a Bancrofted assessment account current, all delinquent principal, interest, and penalties must be paid.

B. For a land division, if the assessment balance is made current, the remaining principal balance of the assessment may be apportioned among the newly created lots according to the percent of benefit to each lot. The finance director shall determine the percent of benefit to the newly created lots. A land division shall include a partition, subdivision, or condominium plat.

C. If property owners wish to divide parcels of land and to have assessment balances apportioned among the newly created lots, they must make such requests in writing.

D. The council may establish by resolution a breakout fee for apportioning the assessment balance among the newly created lots.

11.04.180 NonBancrofted Assessment Remedies.

A. NonBancrofted assessments are due in full 30 days after enactment of the assessing ordinance and are subject to foreclosure if not paid within that time. The city may bid for property at foreclosure sales, which shall be prior to all bids except those by persons entitled to redeem such property under state law.

B. The entire assessment balance on an unpaid, NonBancrofted assessment must be paid in full prior to sale of the property or before the city issues a property related permit. Property related permits are defined in CPMC 11.04.170(A)(1)

11.04.190 Collections/Foreclosure.

A. The city may implement collection procedures to collect payment of delinquent assessments. In the alternative to collection, or if collection efforts fail, the may initiate foreclosure proceedings in any manner provided by ORS 223.505 to ORS 223.650 or as otherwise provided by law.

B. Actual costs for materials and services, and personal services shall be charged to each foreclosure account. The costs shall be charged as they are incurred during the foreclosure process.

C. A purchaser of real property at a foreclosure sale may incur costs authorized by the city for maintaining or improving the property during the period allowed for redemption. If the property is subsequently redeemed, the finance director may return to the purchaser all or part of the penalty paid by the person redeeming the property.

SECTION 2. Chapters 11.16, of the Central Point Municipal Code are hereby amended as follows.

Chapter 11.16 STORMWATER UTILITY FEES

Sections:

11.16.010 Purpose.

11.16.020 Applicability.

11.16.030 Definitions.

11.16.040 Stormwater utility fee rate structure.

11.16.045 Water quality utility fee rate structure.

11.16.050 Equivalent service unit.

11.16.060 Unit rate established for the stormwater utility fee.

11.16.065 Unit rate established for the water quality utility fee.

11.16.070 Service charge adjustments and appeals.

11.16.080 Stormwater or water quality rate discounts for extreme hardship.

11.16.090 Use of funds.

11.16.100 Commencement of charges.

11.16.110 Payment.

~~11.16.110 Delinquent charges.~~ **120 Delinquency.**

11.16.130 Property liens/collections.

11.16.140 Tenant Accounts.

11.16.150 Recovery of delinquent charges.

11.16.010 Purpose.

A. It is the purpose of this chapter to provide revenue for a stormwater program to plan, manage, construct, maintain, use, and carry out activities related thereto, and to provide

revenues by fixing rates and charges. There is hereby created an enterprise fund known as the "city of Central Point stormwater fund." All fees and charges imposed for the stormwater program shall be placed in this fund for the purpose of paying any and all expenses related to the acquisition, installation, addition, improvement, replacement, repair, maintenance, operation, or administration of stormwater program facilities and activities.

B. It is also the purpose of this chapter to provide revenue for a water quality program to pay for any and all expenses related to preventing and reducing water pollution generated within the city limits before it enters and is discharged from the municipal separate storm sewer system (MS4) to local waterways. The city of Central Point water quality program fund is created as an enterprise fund. All fees and charges imposed for the water quality program shall be placed in this fund for the purpose of paying any and all expenses related to the operation of the Central Point MS4 to meet the federal Clean Water Act's National Pollution Discharge Elimination System Phase II permit requirements or administration of the water quality program. (Ord. 1961 §1, 2012; Ord. 1864 §1(part), 2005).

11.16.020 Applicability.

The requirements of this chapter shall apply to all parcels of real property in the city of Central Point, including publicly and privately owned property. (Ord. 1864 §1(part), 2005).

11.16.030 Definitions.

"Biofiltration" means the use of vegetation, including grasses and wetland plants, to filter and treat stormwater runoff as it is conveyed through an open channel or swale.

"City" means the city of Central Point, Oregon, or, as indicated by the context, may mean any official, officer, employee or agency representing the city in the discharge of his or her duties.

"City roads" means all roads, public and private, excluding state and county roads, in the city of Central Point.

"Developed parcel" means a parcel of real property which has been altered by development coverage.

"Drainage facilities" means the drainage systems comprised of stormwater control facilities and any other natural features which store, control, treat and/or convey storm and surface water. Storm drainage facilities shall include all natural and manmade elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable receiving body of water or location internal or external to the boundaries of the city. They include all publicly owned and maintained pipes, appurtenant features, culverts, streets, curbs, gutters, pumping stations, channels, streams,

ditches, wetlands, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities whether or not the city shall have recorded rights-of-way or easements; it is presumed that the city has a prescriptive right of access to all storm drainage facilities for operation, maintenance, rehabilitation, or replacement.

“Equivalent service unit (ESU)” means a configuration of impervious surface estimated to contribute an amount of runoff to the city’s stormwater management system which is approximately equal to that created by the average single-family residential developed parcel in Central Point.

“Impervious surfaces” means hard-surfaced areas that prevent or hinder the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of stormwater, or runoff patterns existent prior to development.

“Manager” means the city manager or designee.

“Parcel” means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed without further subdivision.

“Service charges” means either the stormwater utility fee or the water quality utility fee, as the context may require, in an amount to be determined by applying the appropriate rate to a particular parcel of real property based upon factors established by this chapter.

“Single-family residence” means a residential structure accommodating one dwelling unit, including duplex units and mobile homes, as defined by the city of Central Point land use codes.

“Stormwater control facilities” means all publicly owned and maintained manmade structures or natural watercourse facility improvements, developments, properties or interest therein, made, constructed or acquired for the conveyance of storm or surface water runoff for the purpose of improving the quality of, controlling, or protecting life or property from any storm, flood or surplus waters.

“Stormwater program” means the Central Point stormwater utility as defined in this chapter.

“Undeveloped land” means unimproved land and open space as defined by the city of Central Point land use codes.

“Undeveloped parcel” means any parcel of real property which has not been altered by construction of any improvement or other impervious surface area which affects the hydraulic properties of the parcel.

“Unit rate” means the dollar amount charged per ESU.

“Water quality program” means the Central Point water quality utility as defined in this chapter. (Ord. 1961 §2, 2012; Ord. 1873 §1, 2006; Ord. 1864 §1(part), 2005).

11.16.040 Stormwater utility fee rate structure.

A. Service charges for the stormwater utility fee are hereby authorized and imposed, in amounts and on terms consistent with this chapter.

B. The rates and service charges shall be based on the service provided and the relative contribution of stormwater runoff from a given parcel to the stormwater control facilities. The estimated or measured impervious surface area will be used to determine the relative contribution of stormwater runoff from the parcel.

C. Service charges shall be determined as follows:

1. Undeveloped Parcels. Undeveloped parcels shall not be charged.

2. City Roads. City roads shall not be charged.

3. Single-Family Residences. The monthly service charge for each single-family residence shall be the unit rate for one equivalent service unit.

4. Other Developed Parcels. The monthly service charge for all other developed parcels, including publicly owned properties, shall be computed by multiplying the unit rate times the number of equivalent service units applicable to the parcel minus any approved rate adjustment for the parcel as determined under Section 11.16.060.

5. Minimum Charge. There shall be a minimum monthly service charge for all developed properties equal to the unit rate. (Ord. 1961 §3, 2012; Ord. 1864 §1(part), 2005).

11.16.045 Water quality utility fee rate structure.

A. Service charges for the water quality utility fee are authorized and imposed in amounts and on terms consistent with this chapter.

B. The rates and service charges shall be based on the service provided and the total cost of water quality program implementation. The estimated or measured impervious surface area will be used to determine the relative contribution of stormwater runoff from the parcel.

Service charges shall be determined in the same manner as provided in Section 11.16.040(C). (Ord. 1961 §4, 2012).

11.16.050 Equivalent service unit.

One equivalent service unit is established at three thousand square feet of impervious surface area. For the purpose of computation of service charges, the number of equivalent service units shall be rounded to the nearest tenth. (Ord. 1864 §1(part), 2005).

11.16.060 Unit rate established for the stormwater utility fee.

The unit rate per equivalent service unit for the stormwater utility fee is hereby established at six dollars and fifty cents and may be revised by resolution of the city council from time to time. (Ord. 1961 §5, 2012; Res. 1264, 2010; Ord. 1864 §1(part), 2005).

11.16.065 Unit rate established for the water quality utility fee.

The unit rate per equivalent service unit for the water quality utility fee is established at one dollar and may be revised by resolution of the city council from time to time. (Ord. 1961 §6, 2012).

11.16.070 Service charge adjustments and appeals.

A. Any person billed for service charges may file a “request for service charge adjustment” with the manager within thirty days of the date of the bill. However, submittal of such a request does not extend the period of payment for the charge.

B. A request for service charge adjustment may be granted or approved by the manager only when one or more of the following conditions exist:

1. The amount charged is in error; however, no adjustment will be made unless the parcel is nonresidential and the city’s calculation of the impervious surface area on the parcel is shown to be in error by at least ten percent, as demonstrated by a licensed surveyor or engineer;
2. The parcel exists in its natural unimproved condition and will remain in its natural unimproved condition with no allowable human activities or manmade improvements that adversely affect water quantity or quality; or
3. The parcel includes a constructed or natural on-site stormwater mitigation facility that meets all of the following conditions:
 - a. The constructed or natural facility provides storm or stormwater detention, retention, water quality treatment, and/or conveyance; and

- b. The manager has determined that the property owner is capable of maintaining and operating the facility; and
- c. The facility is maintained by the property owner to the city's design specifications; and
- d. The facility is available for inspection by the city; and
- e. Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and
- f. The credit is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.

C. Credit Calculation. The amount to be credited shall be a fixed percentage reduction, based on the percentage of program costs directly related to managing surface water volumes. For water quantity migration, the formula is expressed mathematically as follows:

$$A = F \times 25\%$$

Where

A = The credit amount to be subtracted from the monthly fee;

F = The total monthly charge without credit;

For qualifying biofiltration, the formula is expressed mathematically as follows:

$$A = F \times 10\%$$

Where

A = The credit amount to be subtracted from the monthly fee; and

F = The total monthly charge without credit.

D. The following information may be required by the manager to determine eligibility for a service charge credit:

1. Approved drainage plan certified by a licensed and qualified professional;
2. Calculation of the credit amount;
3. Signature of the person responsible for the accuracy of the credit application material; and

4. Other information, as required by the manager, to determine that the property owner is willing and has the capacity to maintain the facility.

E. Service charge adjustments will only apply to the bill then due and payable, and bills subsequently issued. The property owner shall have the burden of proving that the service charge adjustment should be granted.

F. Decisions on requests for service charge adjustment shall be made by the manager based on information submitted by the applicant and by the city within thirty days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the manager's decision.

G. Decisions of the manager on requests for service charge adjustments shall be final unless appealed to city council within thirty days of the date of the decision. (Ord. 1864 §1(part), 2005).

11.16.080 Stormwater or water quality rate discounts for extreme hardship.

A. Any household in the city with a combined total income falling below the federal poverty level shall be considered eligible to apply for a stormwater or water quality rate discount. Persons applying for a stormwater or water quality rate discount must be the person who receives the stormwater or water quality bill and the head of a household.

B. Any person desiring to receive the stormwater or water quality rate discount must submit an application to the city on forms to be provided by the city. Subsequent to initial qualifications for utility discount, any person must reapply on or before June fifteenth of each year thereafter. The city manager shall determine whether any applicant meets the qualifications and requirements for discount as set forth in this chapter.

C. The amount of stormwater or water quality rate discount for eligible persons, provided under this chapter, shall be equal to the percentage water rate discount for extreme hardship, as established in Section 13.16.030.

D. It is unlawful for any person to make, assist in making or to derive the benefits from any false application for discounts provided under this chapter. In addition to other penalties provided by law, the city shall be entitled to recover from any person or persons receiving the benefit of discounts as a result of any false statement made in any application the amount therefor, including interest at the rate of nine percent per year from the date such discounts were granted. (Ord. 1961 §7, 2012; Ord. 1864 §1(part), 2005).

11.16.090 Use of funds.

A. Service charges collected under this chapter for the stormwater utility shall be deposited into the city of Central Point stormwater utility fund or funds to be used only for the purpose of paying all or any part of the cost and expense of maintaining and

operating stormwater control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the stormwater program and drainage facilities.

B. Service charges collected under this chapter for the water quality utility shall be deposited into the city of Central Point water quality utility fund. (Ord. 1961 §8, 2012; Ord. 1864 §1(part), 2005).

11.16.100 Commencement of charges.

For new construction, service charges for either the stormwater utility or the water quality utility will commence with the issuance of a building permit, creation of an impervious surface area, or installation of a water meter, whichever comes first. For existing structures, service charges for the stormwater utility will commence on the effective date of the ordinance establishing this chapter and for the water quality utility on the effective date of the ordinance establishing the water quality utility. (Ord. 1961 §9, 2012; Ord. 1864 §1(part), 2005).

11.16.110 Payment.

A. When the customer changes, service charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the service charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

B. If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

C. Stormwater service charges and water quality utility fee charges shall be paid within 30 days from the service period ending date on the regular bill.

D. Payments shall be applied as provided by CPMC 3.40.090.

E. Closing bills shall be computed within two weeks after the stormwater customer notifies the city that he or she is no longer the person responsible for the charge.

~~11.16.110 Delinquent charges.~~

~~Delinquent accounts shall be treated in the same manner as delinquent water service accounts under Section 13.04.120. (Ord. 1864 §1(part), 2005).~~

11.16.120 Delinquency.

A. Stormwater service charges are delinquent if payment in full is not received by the city within 30 days from the service period ending date on the regular bill.

B. If a customer account for stormwater or water quality service charges is delinquent, the city may discontinue any city provided water service billed to that customer. The city will follow the procedures identified in CPMC 13.04.120.

C. The council may establish by resolution fees for extra services required in collecting delinquent customer accounts for user charges.

D. The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid.

11.16.130 Property Liens/Collections.

A. If the stormwater customer is also the owner of the property, service charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city for cleaning, repair, or replacement work caused by violation of this chapter, and any other stormwater and water quality charges incurred related to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred, the lien for the closing bill shall attach as of the day preceding the sale or transfer.

B. When a bill for stormwater or water quality service charges remains unpaid for 60 days, after it has been entered in the customer's billing record or other city stormwater record, and recorded in the city's lien docket, the city may refer the debt to collections. In the alternative, or if collection efforts fail, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

11.16.140 Tenant Accounts.

A. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date of the notice of delinquency is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

B. The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the tenant agree to a plan for repayment of unpaid utility bills.

C. The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

11.16.150 Recovery of Delinquent Charges.

For those accounts where the city does not have the ability to collect stormwater charges in connection with or as part of the charge for another service or utility that can be curtailed to secure collection, the city may certify to the tax assessor of Jackson County the amount of any delinquent service charges, fees for collecting delinquent service charges, and billing service charges. When so certified, they shall be assessed against the premises served in the same manner as other taxes are certified, assessed, collected, and paid.

SECTION 3. A new Chapter 11.20 is hereby amended to the Central Point Municipal Code as follows.

Chapter 11.20 TRANSPORTATION UTILITY FEES

Sections:

11.20.010 Purpose.

11.20.020 Applicability.

11.20.030 Definitions.

11.20.040 Rate structure.

11.20.050 Unit rate established.

11.20.060 Service charge adjustments and appeals.

11.20.070 Transportation utility fee discounts for extreme hardship.

11.20.080 Use of funds.

11.20.090 Commencement of charges.

~~11.20.100 Delinquent charges.~~

11.20.100 Payment.

11.20.110 Delinquency.

11.20.120 Property liens/collections.

11.20.130 Tenant accounts.

11.20.010 Purpose.

It is the purpose of this chapter to provide for the recovery of the costs of maintaining and operating the city of Central Point transportation system. There is hereby created an account within the street fund known as the "transportation utility fee." All fees and charges imposed herein shall be placed in said account for the purpose of paying expenses related to the replacement, repair, maintenance, operation, or administration of the transportation system. (Ord. 1910 §1(part), 2008).

11.20.020 Applicability.

The requirements of this chapter shall apply to all parcels of real property in the city of Central Point, including publicly and privately owned property. (Ord. 1910 §1(part), 2008).

11.20.030 Definitions.

"City" means the city of Central Point, Oregon, or as indicated by the context may mean any official, officer, employee or agency representing the city in the discharge of his or her duties.

"City roads" means all roads, public and private, excluding state and county roads, in the city of Central Point.

"Developed parcel" means a parcel of real property which has been altered by development coverage.

"Gross square footage" shall mean the calculated area of all structures, located on a site, measured along the exterior walls of such structures, including but not limited to enclosed courtyards, stairwells, and square footage on each level of multi-story structures, but not including fences and parking areas which are not enclosed within a building.

"ITE Manual" means the Institute of Transportation Engineering Trip Generation Manual.

"Manager" shall mean the city manager or his or her designee.

"Multifamily residence" shall mean a residential structure accommodating two or more dwelling units.

"Parcel" shall mean the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed without further subdivision.

“Residential land uses” shall mean ITE 200 series.

“Service charges” shall mean the amount owed after applying the appropriate rate to a particular parcel of real property based upon factors established by this chapter.

“Single-family residence” shall mean a residential structure accommodating one dwelling unit.

“Unit rate” means the dollar amount charged per adjusted average daily trip. There shall be a unit rate applied to residential land uses, identified as the residential unit rate, and a unit rate applied to all other land uses, identified as the commercial unit rate. (Ord. 1969 §1(part), 2013; Ord. 1910 §1(part), 2008).

11.20.040 Rate structure.

A. Service charges for the transportation utility fee are hereby authorized and imposed, in amounts and on terms consistent with this chapter.

B. The rates and service charges shall be based on the service provided and the relative usage of the city transportation system for a given parcel. The estimated or measured trip generated will be used to determine the relative usage of the parcel. The rate shall be calculated by multiplying the unit rate by the assigned average daily trip estimate.

Average daily trip estimates shall be as follows:

1. Undeveloped Parcels. Undeveloped parcels shall not be charged.
2. City Roads. City roads shall not be charged.
3. All Other Developed Parcels. The monthly service charge for all other developed parcels, including publicly owned properties, shall be computed by multiplying the unit rate times the number of average daily trips applicable to the parcel, as delineated in Appendix A.¹ For all customer classes not identified in Appendix A, Average Daily Trips, shall be applied as specified in the ITE Manual. (Ord. 1910 §1(part), 2008).

11.20.050 Unit rate established.

Rates shall be established by resolution of the city council in accordance to the provisions set forth in Section 11.20.040. (Ord. 1983 §1, 2014; Ord. 1910 §1(part), 2008).

11.20.060 Service charge adjustments and appeals.

A. Any person billed for service charges may file a “Request for Service Charge Adjustment” with the manager within thirty days of the date of the bill. However, submittal of such a request does not extend the period of payment for the charge.

B. A request for service charge adjustment may be granted or approved by the manager only when one or more of the following conditions exist:

1. The amount charged is in error; or
2. The parcel is nonresidential and the actual trips generated by that parcel, as established by a licensed surveyor or engineer at the expense of the owner, would result in a trip generation total that is greater than or less than the applied average daily trip estimate used in determining the charge; or
3. The parcel exists in its natural unimproved condition and will remain in its natural unimproved condition with no allowable human activities or manmade improvements that would generate trips to or from the parcel.

C. Service charge adjustments will only apply to the bill then due and payable and bills subsequently issued. The property owner shall have the burden of proving that the service charge adjustment should be granted.

D. Decisions on requests for service charge adjustment shall be made by the manager based on information submitted by the applicant and by the city within thirty days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the manager's decision.

E. Decisions of the manager on requests for service charge adjustments shall be final unless appealed to city council within thirty days of the date of the decision. (Ord. 1910 §1(part), 2008).

11.20.070 Transportation utility fee discounts for extreme hardship.

A. Pursuant to Chapter 13.16, the annual income for extreme hardship must fall below one hundred fifty percent of the published federal poverty level in order to qualify for this discount.

B. Any person desiring to receive the transportation utility fee discount must submit an application to the city on forms to be provided by the city. Subsequent to initial qualifications for utility discount, any person must reapply on or before June fifteenth of each year thereafter. The city manager shall determine whether any applicant meets the qualifications and requirements for discount as set forth in this chapter.

C. The amount of transportation utility fee discount for eligible persons, provided under this chapter, shall be equal to the percentage water rate discount for extreme hardship, as established in Central Point Municipal Code Section 13.16.030.

D. It is unlawful for any person to make, assist in making or to derive the benefits from any false application for discounts provided under this chapter. In addition to other penalties provided by law, the city shall be entitled to recover from any person or persons

receiving the benefit of discounts as a result of any false statement made in any application the amount therefor, including interest at the rate of nine percent per year from the date such discounts were granted. (Ord. 1969 §1(part), 2013; Ord. 1910 §1(part), 2008).

11.20.080 Use of funds.

Service charges collected under this chapter shall be deposited into the city of Central Point transportation utility fee account to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating the transportation system, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the transportation system. (Ord. 1910 §1(part), 2008).

11.20.090 Commencement of charges.

For new construction, service charges will commence with the issuance of a building permit or installation of a water meter, whichever comes first. For existing structures, service charges will commence on the effective date of the ordinance codified in this chapter. (Ord. 1910 §1(part), 2008).

~~11.20.100 Delinquent charges.~~

~~Delinquent accounts shall be treated in the same manner as delinquent water service accounts under Section 13.04.120. (Ord. 1910 §1(part), 2008).~~

11.20.100 Payment.

A. When the customer changes, service charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the service charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

B. If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

C. Transportation utility fee service charges shall be paid within 30 days from the service period ending date on the regular bill.

D. Payments shall be applied as provided by CPMC 3.40.090.

E. Closing bills shall be computed within two weeks after the transportation utility customer notifies the city that he or she is no longer the person responsible for the charge.

11.20.110 Delinquency.

- A. Transportation utility service charges are delinquent if payment in full is not received by the city within 30 days from the service period ending date on the regular bill.**
- B. If a customer account for transportation utility service charges is delinquent, the city may discontinue any city provided water service billed to that customer. The city will follow the procedures identified in CPMC 13.04.120.**
- C. The council may establish by resolution fees for extra services required in collecting delinquent customer accounts for user charges.**
- D. The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid.**

11.20.120 Property Liens/Collections.

- A. If the transportation utility customer is also the owner of the property, service charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city caused by violation of this chapter, and any other transportation utility charges incurred related to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred, the lien for the closing bill shall attach as of the day preceding the sale or transfer.**
- B. When a bill for transportation utility service fee remains unpaid for 60 days after it has been entered in the customer's billing record or other city transportation utility record, and recorded in the city's lien docket, the city may refer the debt to collections. In the alternative, or if collection efforts fail, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.**

11.20.130 Tenant Accounts.

- A. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date of the notice of delinquency is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.**
- B. The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the tenant agree to a plan for repayment of unpaid utility bills.**

C. The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

SECTION 4. Chapter 13.04. Is hereby amended to the Central Point Municipal Code as follows.

Chapter 13.04 WATER RATES AND REGULATIONS

Sections:

13.04.010 Water rates.

13.04.020 Water service deposits.

13.04.030 Water month designated.

13.04.040 Discontinuance of water use--Refunds.

13.04.050 Payment due date--Delinquent charges and reconnection fees for an existing water service.

13.04.060 Leak adjustments.

13.04.070 Dates redefined by finance director.

13.04.080 New water service connections--Fees.

13.04.090 Water connection outside city.

13.04.100 Separate buildings.

13.04.110 Water use from fire hydrants.

13.04.115 Pavment.

13.04.120 Unpaid accounts--Termination of service.

13.04.130 Property liens/collections.

13.04.140 Tenant accounts.

13.04.130 150 Water cut-off by city.

13.04.140 160 Authorization to adopt water curtailment plan.

13.04.150 170 Unlawful acts.

13.04.010 Water rates.

A. Water rates, which are adopted by resolution, are based on a cost of service structure and are defined by the following categories: residential, commercial and standby, and irrigation. Special rate considerations are also established for Jackson County Expo, hardship discounts, and an outside city factor.

Water rates will generally include the following: a monthly fixed base charge, a fixed monthly repair and replacement fee, and usage rates based on consumption. Rates are also defined by meter size or number of residential units and water usage rates are based on an inclining scale.

B. Any amount of water used shall be paid for at the rate specified in the schedule above per one hundred cubic feet or fraction thereof.

C. The rate for use of water outside the city limits shall be two times the rate charged to users within the city.

D. Water rates and associated fees may be modified annually as deemed necessary by the city council.

E. All water connections will be billed a nonrefundable account maintenance fee set by resolution.

F. Water connections or reconnections made on regular work days between the hours of four-thirty p.m. and eight a.m., weekends, or holidays are considered after hours and will be assessed an additional fee set by resolution.

G. Water connection charges for bulk water drawn from fire hydrants will be charged according to the current rate schedule, adopted by resolution.

H. Standby water service or fire protection water service charges will be according to the water rate schedule adopted by resolution.

I. Accounts turned off for nonpayment will be assessed a fee, set by resolution, upon reconnection.

J. A fee set by resolution will be charged for all dishonored payments.

K. A water meter fee set by resolution will be charged for each meter.

L. A water tap fee set by resolution will be charged for each new connection from the meter to the city water line.

M. Fire line meters will be assessed a monthly fee based upon the current water rate resolution, with the smaller low flow meters charged for water consumption only. (Ord. 1970 §1, 2013; Ord. 1932 §1(part), 2010).

13.04.020 Water service deposits.

Water service deposits are no longer required or collected. Previous to the writing of the ordinance codified in this title, all deposits collected were refunded as a credit back to the customer's account. (Ord. 1932 §1(part), 2010).

13.04.030 Water month designated.

For purposes of computing water charges, a month shall be a period from the twentieth day of each month to the twentieth day of the succeeding month. Meter reading shall be done on or about the twentieth day of each month and done in such a manner to provide, as nearly as practical, twelve equal periods between readings. (Ord. 1932 §1(part), 2010).

13.04.040 Discontinuance of water use--Refunds.

Any person desiring to discontinue the use of water shall give notice to the finance director, or his/her designee, of such intention. Any prepayment on account of such water service over and above the amount owing by such user shall be refunded to said user. If such refund is not claimed within one year, it shall be turned over to the State of Oregon Unclaimed Property Program with the Department of State Lands. (Ord. 1932 §1(part), 2010).

13.04.050 Payment due date--Delinquent charges and reconnection fees for an existing water service.

A. All water use charges shall become due on the tenth day of the month following the meter reading date and, if unpaid, shall become past due on the eleventh day of the same month. A delinquent charge of five dollars shall be added to any water account balance of twenty dollars or more on the tenth day that the account is past due. Any account past due more than thirty days shall be notified of the city's intention to terminate service in accordance with Section 13.04.120. If water service has been discontinued due to nonpayment of water use charges, a fee will be charged in accordance with Section 13.04.010.

Reconnection requests will be accepted only at City Hall during regular business hours.

B. The finance director, or his/her designee, shall have the authority to allow, under special circumstances, a customer's water service to be temporarily activated without following the normal procedures described in this chapter. The aforementioned temporarily activated water service shall remain activated for no longer than ninety-six hours.

C. A fee in accordance with Section 13.04.120 will be charged for all dishonored payments. The finance director, or his/her designee, shall have the authority to immediately discontinue water service to any customer whose payment for reinstatement of water services has been dishonored. The finance director, or his/her designee, shall also have the authority to require future payments by said customer to be made by cash, money order, or certified check.

D. The finance director, or his/her designee, shall have the authority to allow customers to pay a delinquent account in regular, mutually agreed to, equal amounts. The finance director, or his/her designee, shall also have the authority to waive fees when deemed appropriate. Water customers requesting a payment plan or a waiver of fees may receive such benefits only one time in any one twelve-month period.

E. All outstanding fees and charges must be paid to the city finance department prior to reconnection of the water service.

F. The council may set by resolution fees for extra services required in collecting delinquent customer accounts for water user charges.

13.04.060 Leak adjustments.

A. Residences with a probable water leak may apply for an adjustment to their water bill. The request for adjustment must meet the following criteria:

1. Application must be on a city-approved leak adjustment request application form;
2. The leak must be substantiated by the public works department;
3. The leak must be repaired within fifteen days of discovery by the water user or within fifteen days of notification to the city, whichever is sooner.

B. Leak adjustments are intended for water line leaks that cause an abnormally high monthly water bill. Adjustments will not be granted for improperly set irrigation systems, or excessive watering, or water lines broken as a result of negligence.

C. Satisfactory proof of repairs must be submitted with required application. Satisfactory proof of repairs must include:

1. A description of the repairs that were done;

2. A copy of the repair bill or receipts for necessary parts to complete the required repairs.

D. The city will assume no responsibility for costs associated with the repair.

E. Water bill adjustments caused by leaks will be for one-half of the total water consumption over and above the average consumption for that residence. The average consumption will be calculated by using the consumption for the same month's billing cycle as in the previous three years. In the event that three years of water consumption records are not available, the finance director, or his/her designee, will determine the average consumption based on the best information available.

F. Leak adjustments will be allowed once per year, per residence. Exceptions, due to extraordinary circumstances, to this rule may be authorized by the finance director or his/her designee. (Ord. 1932 §1(part), 2010).

13.04.070 Dates redefined by finance director.

In order to promote efficiency within and among city departments, the finance director may, at his/her discretion, redefine the respective dates for meter reading, water use billing, payments due, delinquencies, and service discontinuance. (Ord. 1932 §1(part), 2010).

13.04.080 New water service connections--Fees.

A. No connection shall be made with any water line of the city until a permit and payment of fees as required in this section has been completed.

B. Permits may be issued upon application to the building department administrator, or his/her designee, under the terms and conditions set forth in this section, provided water is available.

C. Applications for new connections shall include:

1. A legal description (tax map and tax lot) of the parcel of land proposed to be connected.

2. A plot plan of the property, drawn at an acceptable scale on an eight-and-one-half-inch by eleven-inch sheet of paper including all existing and proposed roads, driveways, sidewalks, buildings, other utilities (electric, phone, cable T.V., natural gas, etc.), and water meters.

3. Name, address, and phone number of the applicant.

4. Name, address, and phone number of the person to be billed for the water service.

D. No water connection permits will be issued to any person who has a thirty-day past due water bill, unpaid SDC, or any other unpaid bill due the city.

E. At the time of installation, ownership of the water meter shall revert to the city. As a condition of such connection, the city shall provide routine maintenance of the water meter thereafter.

F. It shall be the duty of the owner of the property being served by a water service to protect his/her water service connection, including water meter, meter box, angle meter valve, and all other associated water meter appurtenances, from damage. In the event of damage, the city public works department will make all necessary repairs. A bill for the cost of repairs will then be added to the property owner's next available water bill. Acts of God, natural disasters, and defective equipment shall be exempted from the property owner's responsibilities to protect his/her water service connection as described herein. The finance director, or his/her designee, shall have the authority, under special circumstances, to waive or adjust repair costs associated with damage to water service connections as described herein. (Ord. 1932 §1(part), 2010).

13.04.090 Water connection outside city.

A. Requests for connection to the city's water system on properties lying outside the city limits shall be made by application on such form as provided by the city. Such application shall be forwarded to the public works director, who may approve or deny, with just cause, such requests.

B. If the public works director/designee approves the request, he/she shall cause the connection to be made. Upon approval of the permit, the person requesting the connection shall pay all applicable fees and charges as described in this title. (Ord. 1932 §1(part), 2010).

13.04.100 Separate buildings.

Multiple water meters to a single building are discouraged, but under special circumstances multiple water meters to a single building may be allowed with written permission from the public works director or his/her designee. One water meter shall be allowed to serve one parcel for the purpose of providing water to the main dwelling and an accessory structure. (Ord. 1939 §1, 2010; Ord. 1932 §1(part), 2010).

13.04.110 Water use from fire hydrants.

A. Any person, firm or organization desiring to use water from a city fire hydrant, other than personnel from any fire department, shall apply to the public works director at least five working days in advance of the date of the requested use.

B. The public works director, or his/her designee, may allow such a request in the absence of a conflict with the city's purposes; provided, that the applicant complies with the following conditions:

1. Agrees to the metering of said water use by the city.
2. Pays all fees and charges for a three-inch water meter as described in Section 13.04.010.
3. Pays the water bill in accordance with the payment schedule described in Section 13.04.050.
4. Is subject to termination of service for unpaid charges for water service as described in Section 13.04.120.
5. Does not have an outstanding unpaid bill for fees or charges associated with water use in the city of Central Point.
6. Agrees to reimburse the city for all incurred costs associated with any damage to city-owned equipment caused as a result of taking water.

C. Upon issuance of the permit to take water from a city fire hydrant, the public works director, or his/her designee, will assign a fire hydrant to be used by the permittee and attach thereto, with chain and lock, an approved hydrant meter and backflow prevention assembly.

D. Personnel from any fire department, using water from a city fire hydrant, shall report such usage to the public works director, or his/her designee, within five days following the date of such usage, together with an estimate of the amount of water used. (Ord. 1932 §1(part), 2010).

13.04.115 Payment.

A. Payments shall be applied as provided by CPMC 3.40.090.

B. The initial customer shall pay water services charges from the date the meter is installed, turned on, and available for use.

C. When the customer changes, user charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the user charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

D. If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

13.04.120 Unpaid accounts--Termination of service.

A. The city may discontinue any city provided water service billed to the customer in the following circumstances:

1. In the event of unpaid charges for water service, repair bills, connecting service or reconnecting service, **where the customer fails to pay the amounts and penalties due and owing within seven (7) days from the date a turn-off notice is mailed,**
2. **if any other charges or assessments that the Central Point Municipal Code authorizes collection by discontinuation of water service are delinquent and not paid with seven (7) days from the date a turn-off notice is mailed, or**
3. **if any other charges or assessments due the City of Central Point by contract for which such contract authorizes collection by discontinuation of water service are delinquent and not paid within seven (7) days from the date a turn-off notice is mailed.**

B. The city may terminate service to the account premises in accordance with this section. In the event the city intends to terminate service as provided in subsection A herein, ~~because of an unpaid account,~~ the following procedure shall be followed:

1. A notice shall be sent to the owner of the property at the address of record and to the customer at the address to which billings have been mailed. However, if any addresses are the same, only one notice need be sent to that address.
2. The notice shall state the city's intention to terminate service seven (7) calendar days after the date of the mailing of the notice, and shall also contain the following language: "If you feel that there is a mistake on the bill or if you wish to dispute the amount of the bill, or you wish to dispute the termination of service, you may do so at Central Point City Hall during designated office hours prior to the expiration of seven calendar days from the date of the mailing of this notice."
3. In the event a customer disagrees with the intended termination of service, the finance director or his/her designee shall provide an opportunity for the customer to be heard in a conference prior to the termination of service.
4. The finance director or his/her designee shall, after the passage of seven calendar days from the date of the mailing of said notice, or following the conference referred to above if one is requested and attended, or following the date scheduled for the conference if one is requested and the customer fails to attend, have the authority to terminate service upon a finding that the charges have been accurately stated and have remained unpaid for a period of more than thirty days after the earliest of the charges was billed.

5. If water service for a multi-tenant building is in the owner's name and the water user charges are delinquent the city shall also mail or deliver a turn-off notice to each tenant prior to discontinuance of service. The city will charge the owner for each notice.

6. The turn-off notice is considered delivered at the close of business on the date actually delivered or, in the case of mailing, the close of business on the third business day from the date of mailing, including the date of mailing.

7. The council may set by resolution a fee for providing the turn-off notices and for discontinuation of service.

8. The city shall not be liable for any damage resulting from discontinuation of service.

C. Subject to subsection D herein, the customer owing the water bill shall pay all charges or correct all violations before the city will restore water service.

D. The finance director may restore water service to a delinquent account upon the acceptance of a plan approved by the finance director for the payment of delinquent amounts.

13.04.130 Property Liens/Collections.

A. If the water customer is the owner of the property, water user charges, plus billing service charges, late payment charge, charge for collecting delinquent bills, damages and any other water charges incurred relating to the property shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred the lien for the closing bill shall attach as of the day preceding the sale or transfer.

B. When a bill for water service remains unpaid for 60 days after it has been entered in the customer's billing record or other city water record, and recorded in the city's lien docket, the city may refer the debt to collections. In the alternative, or if collection efforts fail, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

13.04.140 Tenant Accounts.

A. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date the notice of delinquent status is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

B. The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the customer agree to a plan for repayment of unpaid utility bills.

C. The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

13.04.130150 Water cut-off by city.

The city shall attempt to notify customers in the event that water service needs to be temporarily curtailed. However, water may at any time be shut off from the mains without notice for repair, extensions or other necessary purposes, and the city shall in no instance be held liable or responsible for any damages caused thereby. Where the city intends to voluntarily cut off water service at a planned future time and where such cut-off is under such circumstances as to permit notice to be given, the public works director, or his/her designee, shall cause notice of said cut-off to be delivered to the water customers affected thereby, either by direct contact, by telephone, by mail, by email, or by publication of notice in a newspaper of local circulation. (Ord. 1932 §1(part), 2010).

13.04.140160 Authorization to adopt water curtailment plan.

In the event of an emergency, the city council may, by resolution, adopt a water curtailment plan to be effective in the city whenever enacted pursuant to the terms of such plan. Such water curtailment plan may be amended by resolution from time to time, as necessary. (Ord. 1932 §1(part), 2010).

13.04.150170 Unlawful acts.

A. It is unlawful for any person, other than an official representative of the city, to do any of the following:

1. Reconnect any water service after the same has been disconnected by the city for nonpayment of service charges or any other reason;
2. Disconnect or remove any lock or locking device placed on the meter by the city intended to prevent the use of water;
3. Connect any water service without first filing an application for connection to the city water system and paying all associated fees and charges required for said connection;
4. Connect any water service after application thereof has been denied for good and sufficient reason;

5. Allow a water meter to become inaccessible so that it cannot be serviced by the city.

B. It is also unlawful for any person to do any of the following:

1. Verbally or physically harm or threaten any city employee in the act of completing his/her job.

2. Attempt, in any way, to prevent the city from reading or servicing a water meter.

3. Impede any city employee from performing his/her job. (Ord. 1932 §1(part), 2010).

SECTION 5. A New Chapter 3.40 Is hereby added to the Central Point Municipal Code as follows.

3.40 LIENS AND COLLECTIONS

Sections:

3.40.010 Interest for Financing; Late Payment Charge on Receivables.

3.40.020 Attorney Fees and Collection Costs.

3.40.030 Liens.

3.40.040 Refunds and Accounts Payable.

3.40.050 Release of Lien.

3.40.060 Form of Payment.

3.40.070 Collection.

3.40.080 Adjustment of Accounts.

3.40.090 Crediting of Utility Payments.

3.40.100 Issuance of Permits, Licenses and Other Approvals.

3.40.200 Financing/Deferral of System Development Charges and Facility Charges.

3.40.210 Audit of Books, Records or Persons.

3.40.010 Interest for Financing; Late Payment Charge on Receivables.

A. The council, by resolution, may set a rate to be applied to all receivables owed the city as a late payment charge. The late payment charge shall be added to any lien for the receivable. Unless otherwise provided, the late payment charge will be compounded monthly and shall accrue from the date of the invoice if not paid by the date due.

B. The finance director may set interest rates to be applied to finance agreements offered by the city.

3.40.020 Attorney Fees and Collection Costs.

In addition to a late payment charge, the actual cost of collection, including attorney fees, may be charged to each receivable account. The council, by resolution, may establish a charge in lieu of actual collection costs to be applied to all delinquent accounts. The collection cost or charge shall be added to any lien for the receivable.

3.40.030 Liens.

A. There shall be an on-line electronic medium to be known as *Conduits* by which the lien dockets of the City of Central Point can be accessed.

B. The city may, by ordinance, authorize the finance director to create a lien by recording the lien in a lien docket.

C. The finance director shall record in the city's lien dockets:

1. All liens on real property in favor of the city, including but not limited to, liens for:

- (i) assessments for local improvements,
- (ii) assessments for financing agreements,
- (iii) system development charges,
- (iv) facility charges,
- (v) delinquent utility bills,
- (vi) civil penalties, and
- (vii) nuisance abatements.

2. All releases satisfactions, assignments, apportionments, amendments and modifications of liens recorded in a lien docket. No transfer or assignment of any certificate of purchase of real property sold under ORS 223.505 to 223.590 is valid unless the recorder has noted an entry of such transfer or assignment in the appropriate lien docket.

3. Documents that provide notice regarding potential obligations of property including, but not limited to, reimbursement agreements, reimbursement district resolutions, agreements relating to future obligations to build or fund public improvements, and private stormwater operations and maintenance agreements. The recording of such documents shall not create a lien. The document and the lien docket shall prominently state "NOTICE OF POTENTIAL OBLIGATION."

4. Such other documents required or permitted by law to be recorded, filed, or noted in a lien docket maintained by the city.

D. In addition to recording liens and notices in a lien docket, the finance director may record the lien in the Jackson County deed records. The informational recording shall include a clear statement of the purpose of the recording and a reference to how the city's lien docket can be accessed.

E. Each lien record recorded in a lien docket shall consist of:

- 1. the effective date of recording,**
- 2. a reference to the location of source documents or files,**
- 3. a description of the real property affected by the recording including the county "R" number, state identification number and a description meeting the requirements of ORS 93.600,**
- 4. the lien account number or other account identifier,**
- 5. the amount of the original lien or obligation, and**
- 6. the current amount of principal balance.**

F. Each lien record for the purpose of an assessment for local improvements shall also include the name or number of the local improvement, a description of each lot or parcel of land or other property against which the final assessment is made, or which bears or is chargeable for a portion of the actual cost of the local improvement, with the name of the owner and the amount of the unpaid final assessment.

G. Payments of installments, interest, penalties, and late payment charges for assessments for local improvements shall be noted in the lien docket as they are received, with the date of payment. The payments so made and entered shall discharge the lien to the amount of the payment and from the date of the payment.

H. If the lien record was previously recorded in one of the indices maintained by the County Clerk under ORS Chapter 205, in addition to the information above the lien record shall include the original recording date and a reference to the location of the original recording.

I. Each lien record shall be a lien in favor of the city against each lot or parcel of land or other property identified, until paid, for the following:

- 1. for the amounts of the unpaid principal amount docketed, with interest at the rate determined by the city; and**
- 2. for any additional penalties or collection charges imposed by the city with respect to any amounts that are not paid when due.**

J. Unless otherwise provided in this code, when a lien remains unpaid for 60 days after it has been recorded in the city's lien docket, the lien may be foreclosed in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law.

3.40.040 Refunds and Accounts Payable.

Except for fees collected pursuant to the Oregon Structural Specialty Codes, any account payable or refund of money held by the city but that is owed to a person with a delinquent city account, shall be applied to the delinquent account. If the delinquent account is in dispute, the account payable or refund shall be held until the dispute is resolved.

3.40.050 Release of Lien.

The city shall collect an administrative fee, as set by council resolution, for the release of any lien issued by the city.

3.40.060 Form of Payment.

In the discretion of the finance director, any payment may be required to be made by money order, cashier's check or similarly secure form of payment.

3.40.070 Collection.

A. Any tax, fee, or service charge required to be paid by any person to the city, or collected by a person and paid to the city, under the provisions of the Central Point Municipal Code, finance agreement, assessment or otherwise, shall be deemed a debt owed by the person to the city.

B. In addition to any other collection method, any charge due to the city that is not paid when due may be recovered by sending the account to a collection agency.

C. Any person owing money to the city under the provisions of city codes, assessments, or finance agreement with the city shall be liable to an action brought in the name of the City of Central Point for the recovery of such amount.

3.40.080 Adjustment of Accounts.

The finance director may write off accounts receivable balances if in the best interest of the city and may write off credit balances, unless the customer requests otherwise, if the cost of making the refund would exceed the amount of the credit balance.

3.40.090 Crediting of Utility Payments.

Payment for utility bills shall be applied in the following order: any late payment charge, any collection cost charge, charges pursuant to council resolution, stormwater and water quality user charges in the order incurred, water user charges in the order incurred, and transportation fee charges in the order incurred.

3.40.100 Issuance of Permits, Licenses and Other Approvals.

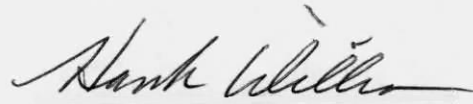
In addition to any other collection method, if an applicant, or any person or firm affiliated with the applicant, seeking a permit, license or other approval from the city has any charge due to the city that is not paid when due, the finance director may withhold the issuance until such time as the past due amount is paid. This

section shall not apply to approvals pursuant to the Oregon Structural Specialty Codes.

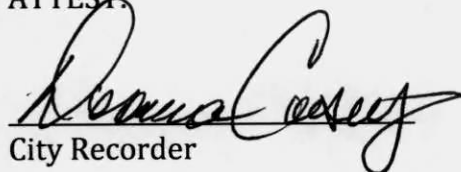
SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 5. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

PASSED by the Council and signed by me in authentication of its passage this 11th day of August 2016.


Mayor Hank Williams

ATTEST:


City Recorder