

## **Title 3**

### **REVENUE AND FINANCE**

#### **Chapters:**

- 3.04 Claims and Demands Against the City**
- 3.08 Local Improvements and Assessments**
- 3.10 Investment of Excess Funds**
- 3.11 Investment Policy**
- 3.12 Funds**
- 3.13 Real Estate Excise Tax**
- 3.14 Leasehold Excise Tax**
- 3.15 Lodging Excise Tax**
- 3.16 Sales or Use Tax**
- 3.20 Additional Sales or Use Tax**
- 3.22 Natural or Manufactured Gas Tax**
- 3.24 Reward for Information on Property Destruction**
- 3.28 Special Referendum to Impose or Alter Tax**
- 3.32 Bond Registration**
- 3.36 Impact Fees for School Facilities**
- 3.40 Impact Fees for Public Streets, Roads, Parks, Open Space and Recreation  
Facilities and Fire Protection**
- 3.44 Collection Agency Use**
- 3.46 Miscellaneous Fees**



**Chapter 3.04**

**CLAIMS AND DEMANDS  
AGAINST THE CITY**

Sections:

- 3.04.010 Filing of vouchers required when – Form.
- 3.04.020 Vouchers – Contents required.
- 3.04.030 Vouchers – Signature and certification required.
- 3.04.040 Auditing committee recommendation required.
- 3.04.050 Scope of provisions.

**3.04.010 Filing of vouchers required when – Form.**

All claims or demands against the city, with the exception of claims for damages sounding in tort, shall be presented to the city council or filed with the city finance director upon vouchers in a form prescribed or furnished by the city finance director. (Ord. 1253 § 1, 1957).

**3.04.020 Vouchers – Contents required.**

Said vouchers shall state the nature of the claim or demand, the date when any services or merchandise were furnished and shall be signed by the claimant and shall contain such other information as required by the form furnished by the city finance director. (Ord. 1253 § 2, 1957).

**3.04.030 Vouchers – Signature and certification required.**

All vouchers submitted shall contain the signature of the department head for whose department said indebtedness was incurred, with the certification that the services or merchandise has actually been furnished to the city upon his or her authorization. In the case of indebtedness incurred by express action of the city council and reflected in the minutes of the meetings of the city council, not applicable to any specific department, the latter certifications may be made by the city clerk-treasurer on said voucher. (Ord. 1253 § 3, 1957).

**3.04.040 Auditing committee recommendation required.**

All said claims and demands shall be referred to the auditing committee of the city council for recommendation. Said auditing committee may recommend approval and payment by affixing on said voucher their initials only. (Ord. 1253 § 4, 1957).

**3.04.050 Scope of provisions.**

This chapter shall not be construed to apply to, to limit, expand or affect in any way the requirements of the laws of the state of Washington relating to the presentation of claims for damages sounding in tort against the city. (Ord. 1253 § 5, 1957).

**Chapter 3.08**

**LOCAL IMPROVEMENTS  
AND ASSESSMENTS**

Sections:

- 3.08.010 Statutory authority for proceedings.
- 3.08.015 Additional statutory authority for proceedings.
- 3.08.020 Initiation procedures and requirements.
- 3.08.030 Area and items to be included in district – Form of ordinance.
- 3.08.040 Improvements to be made by whom – City council authority.
- 3.08.050 Cost and expense – Distribution and assessment.
- 3.08.060 Cost and expense – Payment by bonds authorized when.
- 3.08.070 Bonds – Issuance or sale authorized when – Proceeds of sale.
- 3.08.080 Cost and expense – Warrants issued for payment when – Effect.
- 3.08.090 Assessments – Collection – Clerk-treasurer’s notice – Publication required.
- 3.08.100 Bonds – Payment procedure to be stated in ordinance – Delinquent payments – Penalty.
- 3.08.110 Improvements made on bond installment plan – Procedure – Clerk-treasurer responsibilities.
- 3.08.120 Bonds – Form – Register to be kept.
- 3.08.130 Applicability of provisions.

**3.08.010 Statutory authority for proceedings.**

Whenever the city council shall provide for making local improvements and for paying the whole or any portion of the cost and expense thereof by levying and collecting special assessments on property especially benefitted, the proceeding therefor shall be in accordance with the provisions of RCW 35.43.010 – 35.43.230. (Ord. 1763 § 1, 1974; Ord. 1288 § 1, 1958).

**3.08.015 Additional statutory authority for proceedings.**

Whenever the city council shall provide for making local improvements and utility local improvements and for paying the whole or any portion of the cost and expense thereof by levying and collecting special assessments on property specially benefitted, the proceedings therefor shall be in accordance with the provisions of Chapter 35A.43 RCW and other applicable laws, and provi-

sions of this section and ordinances amendatory thereof. (Ord. 2794 § 1, 1997).

**3.08.020 Initiation procedures and requirements.**

A. Any such improvement may be initiated either upon petition or by resolution therefor, but such improvement may be ordered only by ordinance.

B. In case the improvement is initiated by petition, such petition shall be presented to and filed with the city clerk-treasurer. Said petition shall be accompanied by a bond signed by two property owners within the proposed local improvement district in a sum equal to twice the amount of preliminary engineering and clerical costs, in order to relieve the city from all costs incurred in the event that the local improvement district should fail for any reason. The city engineer shall thereupon examine such petition, determine the sufficiency thereof and ascertain if the facts therein stated are true and shall cause an estimate of the cost and expense of such improvement to be made and shall transmit the same to the city council, together with all papers and information in his possession regarding the same, together with his recommendations thereon and a description of the boundaries of the district and a statement of the proportionate amount of the cost and expense of such improvement which shall be borne by property within the proposed assessment district, and a statement of the actual valuation of the real estate, including 25 percent of the actual valuation of the improvements in such proposed district according to the valuation last placed upon it for purpose of general taxation, together with all other outstanding and unpaid local improvement assessments against the property included in the district, excluding penalties and interest; and in case the said petition is sufficient, shall also submit a diagram showing thereon the lots, tracts or parcels of land and other property which will be specially benefitted thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of property; provided, that no such diagram shall be required where such estimates are on file in the office of the city engineer, or other designated office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

C. The city council may initiate such improvement directly by resolution declaring its intention to order such improvement and setting forth the nature and territorial extent thereof and notifying all persons who may desire to object thereto to

appear and present such objections at a meeting of the city council, or a committee thereof, at the time specified in such resolution. Such resolution shall be published in at least two consecutive issues of the official newspaper of the city, and the date of hearing thereon shall be at least 15 days after the date of the first publication of the same. The city engineer shall submit to the city council, at or prior to the date fixed for such hearing, the same data and information required to be submitted in the case of a petition.

D. The city council may, by ordinance, authorize the making of any such improvement, and in case of an improvement initiated by resolution of the city council, such ordinance may be passed on

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or at any time after the date of the hearing specified in the resolution. (Ord. 1288 § 2, 1958).

**3.08.030 Area and items to be included in district – Form of ordinance.**

Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefitted shall establish a local improvement district to be known as “Local Improvement District No. \_\_\_\_” which shall embrace as nearly as practicable all the property specially benefitted by the improvement.

Unless otherwise provided in the ordinance, the improvement district shall include all the property between the termini of the improvement abutting upon, adjacent, vicinal, or proximate to the street, avenue, lane, alley, boulevard, park drive, parkway, public place or square proposed to be improved to a distance of 90 feet back from the marginal lines thereof or to the centerline of the blocks facing or abutting thereon, whichever is greater (in the case of unplatted property the distance back shall be the same as in the platted property immediately adjacent thereto); provided, that if the local improvement is such that the special benefits resulting therefrom extend beyond the boundaries as above set forth the council may create an enlarged district to include as nearly as practicable all the property to be specially benefitted by the improvement; the petition or resolution for an enlarged district and all proceedings pursuant thereto shall conform as nearly as is practicable to the provisions relating to local improvements generally, except that the petition or resolution must describe it as an enlarged district and state what proportion of the amount to be charged to the property specially benefitted shall be charged to the property lying between the termini of the proposed improvement and extending back from the marginal lines thereof, and what proportion thereof to the remainder of the enlarged district; provided, further, that whenever the nature of the improvement is such that the special benefits conferred on the property are not fairly reflected by the use of the aforesaid termini and zone method, the ordinance ordering the improvement may provide that the assessment shall be made against the property of the district in accordance with the special benefits it will derive from the improvement without regard to the zone and termini method. (Ord. 1288 § 3, 1958).

**3.08.040 Improvements to be made by whom – City council authority.**

All local improvements, funds for the making of

which are derived in whole or in part from assessments upon property specially benefitted, shall be made either by the city itself or by contract upon competitive bids in the manner provided by law. The city council shall determine whether such local improvement shall be done by contract or by the city itself. (Ord. 1288 § 4, 1958).

**3.08.050 Cost and expense – Distribution and assessment.**

The cost and expense of any such improvement shall be distributed and assessed against all the property included in such local improvement district, in accordance with the special benefits conferred thereon, and in the manner provided by law. (Ord. 1288 § 5, 1958).

**3.08.060 Cost and expense – Payment by bonds authorized when.**

The city council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to 20 days after the 30 days allowed for the payment without penalty or interest. (Ord. 1288 § 6, 1958).

**3.08.070 Bonds – Issuance or sale authorized when – Proceeds of sale.**

Local improvement bonds may be issued for the improvement to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein, and at not less than par and accrued interest. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof. The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement. (Ord. 1288 § 7, 1958).

**3.08.080 Cost and expense – Warrants issued for payment when – Effect.**

The city council may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at a rate not exceeding eight percent per year and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

All warrants against any local improvement fund sold by the city or issued to a contractor and by him sold or hypothecated for a valuable consid-

**3.08.090**

eration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien or claim of any surety upon the bond or bonds given the city by or for the contractor to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work. (Ord. 1288 § 8, 1958).

**3.08.090 Assessments – Collection – Clerk-treasurer’s notice – Publication required.**

All assessments for local improvements shall be collected by the city clerk-treasurer and shall be kept in a separate fund to be known as “Local Improvement Fund, District No. \_\_\_\_\_” and shall be used for no other purpose than the redemption of warrants drawn upon the bonds issued against the fund to provide payment for the cost and expense of the improvement.

As soon as the assessment roll has been placed in the hands of the city clerk-treasurer for collection, she shall publish a notice in the official newspaper of the city for two consecutive weekly issues, that the roll is in her hands for collection and that any assessment may be paid within 30 days from the date of the first publication of the notice without penalty, interest or costs. (Ord. 1288 § 9, 1958).

**3.08.100 Bonds – Payment procedure to be stated in ordinance – Delinquent payments – Penalty.**

In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract, and parcel of land and other property, or any portion thereof, may be paid during the 30-day period allowed for the payment of assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual installments. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvement are to run. Interest on the whole amount unpaid at the rate fixed by the ordinance shall be due on the due date of the first installment of principal and each year thereafter on the due date of each installment of principal. The first installment shall become due and payable during the 30-day period succeeding a date one year after the date of first publication of the clerk-treasurer’s notice, and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of any

assessment remains unpaid after the first 30 days herein provided for, interest on the whole unpaid sum shall be charged at the rate to be fixed by ordinance, not exceeding six percent per year, and each year thereafter one of said installments, together with interest due upon the whole of the unpaid balance, shall be collected. Any installment not paid prior to the expiration of the 30-day period during which such installment is due and payable shall thereupon become delinquent. All delinquent installments shall be subject to a charge for interest at the bond rate and to an additional charge of five percent penalty levied upon both principal and interest due on such installment or installments. (Ord. 1288 § 10, 1958).

**3.08.110 Improvements made on bond installment plan – Procedure – Clerk-treasurer responsibilities.**

In case said improvement is made on the bond installment plan, the city clerk-treasurer shall, at the expiration of 30 days after the first publication of the notice to pay assessment, report to the city council the amount collected by her upon the said roll and shall specify in said report the amount remaining unpaid upon said roll, and the city council may then, or at a subsequent meeting, by ordinance, direct the mayor and city clerk-treasurer to issue the bonds on the local improvement district established by the ordinance ordering the improvement in an amount equal to the amount remaining unpaid on said assessment. Said ordinance shall specify the denomination of the bonds which, except for bond numbered “one” shall be in multiples of \$100.00 each. (Ord. 1288 § 11, 1958).

**3.08.120 Bonds – Form – Register to be kept.**

All bonds, unless otherwise specially ordered by the council, issued in pursuance of the provisions of this chapter may be in substantially the following form:

No. \_\_\_\_\_ \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF WASHINGTON  
LOCAL IMPROVEMENT BOND  
CITY OF MOUNT VERNON  
LOCAL IMPROVEMENT DISTRICT  
NO. \_\_\_\_\_

N.B. This bond is issued by virtue of the provisions of RCW 35.45.010 et seq.; 35.45.070 of which reads as follows:

"Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor against the City or Town by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the local improvement guaranty fund of such City or Town, and the City or Town shall not be liable to any holder or owner of such bond or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the city or town. The remedy of the holder or owner of a bond or warrant in case of nonpayment, shall be confined to the enforcement of the assessment and to the guaranty fund.

The City of Mount Vernon, a municipal corporation of the State of Washington, hereby promises to pay to \_\_\_\_\_ or bearer \_\_\_\_\_ Dollars (\$\_\_\_\_), in lawful money of the United States, with interest thereon at the rate of \_\_\_\_ percent per annum, payable out of the fund established by Ordinance No. \_\_\_\_ of said City, and known as "Local Improvement Fund, District No. \_\_\_\_" and not otherwise, except from the guaranty fund, as herein provided. Both principal of and interest on this bond are payable at the office of the City Treasurer of said City.

A coupon is hereto attached for each installment of interest to accrue hereon and said interest shall be paid only on presentation and surrender of such coupon to the City Treasurer.

This bond is payable on or before the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and is subject to call by the City Treasurer whenever there shall be sufficient money in said Local Improvement Fund to pay the same and all unpaid bonds of the series of which this bond is one, which are prior to this bond in numerical order, over and above sufficient for the payment of interest on all unpaid bonds of said series. The call for payment of this bond, or of any bond of the series of which this is one, shall be made by the City Treasurer by publishing the same once in the official newspaper of the City, and when such call is made for the payment of this bond it will be paid on the day the next interest coupon thereon shall become due after said call and upon said day interest

on this bond shall cease and any remaining coupons shall be void.

The City Council of said City as the agent of said Local Improvement District No. \_\_\_\_\_, established by Ordinance No. \_\_\_\_\_, has caused this bond to be issued in the name of said City as the bond of said Local Improvement District, the bond or the proceeds thereof to be applied in part payment of so much of the cost of the improvement of \_\_\_\_\_, under said Ordinance No. \_\_\_\_\_ as is levied and assessed against the property included in said Local Improvement District No. \_\_\_\_\_ and benefited by said improvement and the said Local Improvement Fund has been established by ordinance for said purpose; and the holder or holders of this bond shall look only to said fund and to the Local Improvement Guaranty Fund of the City of Mount Vernon for the payment of either the principal of or interest on this bond.

This bond is one of a series of bonds aggregating in all the principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_) all of which bonds are subject to the same terms and conditions as herein expressed.

IN WITNESS WHEREOF, the City of Mount Vernon has caused these presents to be signed by its Mayor and attested by its City Clerk and sealed with its corporate seal this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

CITY OF MOUNT VERNON,  
WASHINGTON

By

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk-Treasurer

There shall be attached to each bond such a number of coupons as shall be required to represent the interest thereon payable either annually or semiannually, as the case may be, for the term of said bonds, which coupon shall be substantially in the following form:

**3.08.130**

On the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the City of Mount Vernon, State of Washington, promises to pay to the bearer at the office of the City Treasurer \_\_\_\_\_ dollars (\$\_\_\_\_) being (six) (twelve) months' interest due on that day on Bond No. \_\_\_\_ of the bonds of Local Improvement District No. \_\_\_\_\_, and not otherwise, provided that this coupon is subject to all the terms and conditions contained in the bond to which it is annexed, and if said bond shall be called for payment before maturity hereof, then this coupon shall be void.

CITY OF MOUNT VERNON,  
WASHINGTON

By

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

The city clerk-treasurer shall keep in her office a register of all such bonds in which she shall enter the local improvement district for which the same are issued and the date, amount and number of each bond and the terms of payment. (Ord. 1288 § 12, 1958).

**3.08.130 Applicability of provisions.**

The laws of the state of Washington and the provisions of this chapter shall be applicable to all local improvements and proceedings therein initiated by petition or resolution subsequent to July 28, 1958 including all provisions and proceedings made to date in connection with Local Improvement Districts No. 190, 191, 192, and 193; said proceedings being hereby ratified and confirmed; and all proceedings and the manner of the collection and enforcement of all assessment in such proceedings shall be in compliance herewith. (Ord. 1288 § 14, 1958).

**Chapter 3.10**

**INVESTMENT OF EXCESS FUNDS**

Sections:

3.10.010 Generally.

**3.10.010 Generally.**

The finance director may, except as otherwise provided by state law, invest any portion of the moneys in the city's inactive funds or in other funds in excess of current needs in the manner authorized by RCW 35.39.030, 35.39.032 and 35.39.034. The finance director shall make a monthly report of all investment transactions to the city council. Any moneys determined by the finance director to be available for this purpose may be invested, unless otherwise restricted by state law, by commingling such moneys within one common investment portfolio. All income derived from such investment shall be for the benefit of the general fund; provided, that funds derived from the sale of general obligation bonds or revenue bonds or similar instruments of indebtedness shall be invested or used in such manner as the initiating ordinances, resolutions or bond covenants may lawfully prescribe. (Ord. 2239 § 1, 1986).

**Chapter 3.11**

**INVESTMENT POLICY**

Sections:

- 3.11.010 Purpose of provisions.
- 3.11.020 Policy.
- 3.11.030 Scope.
- 3.11.040 Prudence.
- 3.11.050 Objective.
- 3.11.060 Delegation of authority.
- 3.11.070 Ethics and conflicts of interest.
- 3.11.080 Authorized financial dealers and institutions.
- 3.11.090 Authorized and suitable investments.
- 3.11.100 Collateralization.
- 3.11.110 Safekeeping and custody.
- 3.11.120 Diversification.
- 3.11.130 Maximum maturities.
- 3.11.140 Internal control.
- 3.11.150 Market yield (benchmark).
- 3.11.160 Reporting.
- 3.11.170 Investment policy review.

**3.11.010 Purpose of provisions.**

The city council declares that city cash management and investment practices have a significant impact on the operation of city government. In furtherance of that recognition, the city council adopts the policies set forth in this chapter, which shall be referred to as the city of Mount Vernon investment policy. (Ord. 2727 § 1, 1996).

**3.11.020 Policy.**

It is the policy of the city of Mount Vernon to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all state and local statutes governing the investment of public funds. Cash may, at the discretion of the city finance director, be invested separately by fund or be commingled into a common investment portfolio and earnings from such portfolio distributed at least quarterly. The city finance director has been authorized by Ordinance 2310 and MVMC 2.28.080 to manage the investments described herein. (Ord. 2727 § 2, 1996).

**3.11.030 Scope.**

This investment policy supersedes any previous investment policy and applies to all financial assets of the city. These funds are accounted for in the city’s comprehensive annual financial report and include:

- A. General fund (current expense);
- B. Special revenue funds;
- C. Debt service funds;
- D. Capital project funds;
- E. Enterprise funds;
- F. Internal service funds;
- G. Fiduciary funds including expendable trust funds and agency funds. (Ord. 2727 § 3, 1996).

**3.11.040 Prudence.**

Investments shall be made with such judgment and care – under circumstances then prevailing – as persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes; provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments. (Ord. 2727 § 4, 1996).

**3.11.050 Objective.**

The primary objectives, in priority order, of the city’s investment activities shall be:

A. Safety. Safety of principal is the foremost objective of the investment program. Investments of the city shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

B. Liquidity. The city’s investment portfolio will remain sufficiently liquid to enable the city to meet all operating requirements which might be reasonably anticipated.

C. Return on Investments. The city’s investment portfolio shall be designed with the objective of attaining a rate of return throughout budgetary and economic cycles, commensurate with the city’s investment risk constraints and cash flow characteristics of the portfolio.

D. Local Institutions. Local institutions shall be given preference when they are, in the judgment of the finance director, competitive with other institutions. (Ord. 2727 § 5, 1996).

### 3.11.060

#### **3.11.060 Delegation of authority.**

Ordinance 2310 and MVMC 2.28.080 delegates investment authority to the finance director. The finance director shall establish and maintain detailed written procedures for the operation of the investment program consistent with the investment policy set forth in this chapter. Procedures shall include reference to: safekeeping, public securities association (PSA) repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the finance director. The finance director shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. (Ord. 2727 § 6, 1996).

#### **3.11.070 Ethics and conflicts of interest.**

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investments officials shall disclose to the mayor and city council any material financial interest in financial institutions that conduct business with this city, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the city's portfolio, particularly with regard to the time of purchases and sales. (Ord. 2727 § 7, 1996).

#### **3.11.080 Authorized financial dealers and institutions.**

The finance director will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness who maintain an office in the state of Washington. These may include "primary" dealers or regional dealers that qualify under U.S. Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the finance director with their most recent audited financial statements.

An annual review of the financial conditions and registrations of such institutions and broker/dealers shall be conducted by the finance director.

A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the city invests. (Ord. 2727 § 8, 1996).

#### **3.11.090 Authorized and suitable investments.**

A. The city shall limit its investments to those allowed by the RCW 35A.40.050, as it now exists or may hereafter be amended. In general, and by way of illustration only, and not by way of limitation, these investments include the following:

1. United States bonds;
2. United States certificates of indebtedness;
3. Bonds or warrants of this state;
4. General obligations or utility revenue bonds or warrants of its own or of any other city or town in the state;
5. Its own bonds or warrants of a local improvement district which are within the protection of the local improvement guaranty fund law; and
6. In any other investments authorized by law for any other taxing districts.

B. The finance director may invest in the following instruments which the city has determined fall within the allowable investments authorized by RCW 35.40.050:

1. Obligations of United States government and its agencies;
2. Certificates of deposit of financial institutions (either banks or thrifts) which are qualified public depositories and which are in accordance with the restrictions placed on such deposits;
3. Savings or time accounts in banks, trust companies, savings and loan associations, and mutual savings banks which are conducting business in this state, up to the amount of the insurance afforded such accounts by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation. Savings or time deposits may exceed federal insurance limits if such excess is insured by the Washington Public Deposit Protection Commission (WPDPC);
4. Bankers acceptances, with limitations specifically outlined in the investment procedure;
5. Repurchase agreements, with limitations specifically outlined in the investment procedure;
6. The Washington Local Government Investment Pool. (Ord. 2727 § 9, 1996).

**3.11.100 Collateralization.**

Collateralization will be required on repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102 percent of market value of principal and accrued interest.

The city chooses to limit collateral to the obligations of the United States government and its agencies.

Collateral will always be held by an independent third party with whom the city has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the city and retained.

The right of collateral substitution is granted. (Ord. 2727 § 10, 1996).

**3.11.110 Safekeeping and custody.**

All securities shall be held by a third party custodian in the name of the city and shall not be lent out or commingled with the holdings of other investors. The finance director shall designate the third party custodian who shall provide a separate statement of holdings which shall be evidenced by safekeeping receipts. (Ord. 2727 § 11, 1996).

**3.11.120 Diversification.**

The city will diversify its investments by security type and institution. With the exception of U.S. Treasury securities and the Washington State Local Government Investment Pool, no more than 65 percent of the city's total investment portfolio will be invested in a single security type or with a single financial institution. (Ord. 2727 § 12, 1996).

**3.11.130 Maximum maturities.**

To the extent possible, the city will attempt to match its investments with anticipated cash flow requirements, holding investments to maturity whenever possible. The city will not directly invest in securities maturing more than 10 years from the date of purchase; provided the average maturity of all city investments shall not exceed five years.

Reserve funds may be invested in securities exceeding five years if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds. (Ord. 2727 § 13, 1996).

**3.11.140 Internal control.**

The finance director shall establish a system of internal controls, which shall be reviewed annually by an external auditor. This review will provide internal control by assuring compliance with policies and procedures. (Ord. 2727 § 14, 1996).

**3.11.150 Market yield (benchmark).**

The city manages its investment portfolio using an active rather than a passive management style. This means that securities are actively bought and sold to obtain greater market yield through both trading gains and interest earnings as opposed to a passive management investment approach which involves a buy and hold process where only interest earnings to maturity are realized. Using active portfolio management, there will be both trading gains and losses. To assure preservation of capital, trading losses will be confined to lower rates of return on investments rather than loss of principal. Securities may not be sold or traded if the result would cause a loss of principal. (Ord. 2727 § 15, 1996).

**3.11.160 Reporting.**

The finance director is charged with the responsibility of including a market report on investment activity and returns in the city's comprehensive annual financial report. This report shall contain such information as the finance director deems appropriate. (Ord. 2727 § 16, 1996).

**3.11.170 Investment policy review.**

The city's investment policy as adopted by this chapter shall be reviewed on an annual basis by the finance director. The finance director shall recommend to the city council such modifications as may be deemed advisable. (Ord. 2727 § 17, 1996).

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**Chapter 3.12**

**FUNDS**

Sections:

- 3.12.010 Arterial street fund – Established.
- 3.12.020 Arterial street fund – Moneys to be deposited.
- 3.12.030 Arterial street fund – Use.
- 3.12.040 Equipment rental fund – Established – Uses.
- 3.12.050 Equipment rental fund – Motor equipment included when.
- 3.12.060 Equipment rental fund – Charges and terms of rental.
- 3.12.070 Equipment rental fund – Recordkeeping and warrants for expenditures.
- 3.12.080 Equipment rental fund – Expenditure of deposited funds.
- 3.12.090 Equipment rental fund – Reversion of funds following abolition.
- 3.12.100 Federal revenue sharing fund – Established.
- 3.12.110 Federal revenue sharing fund – Moneys to be included – Expenditure regulations.
- 3.12.120 Garbage equipment cumulative reserve fund – Established – Administration.
- 3.12.130 Garbage warrant redemption fund – Established – Administration.
- 3.12.140 General claims fund – Established – Use.
- 3.12.150 General claims fund – Record keeping required.
- 3.12.160 General claims fund – Transfer of funds authorized when.
- 3.12.170 Health and sanitation fund – Established – Administration.
- 3.12.180 Local improvement guaranty fund – Established – Purpose.
- 3.12.190 Local improvement guaranty fund – Moneys to be deposited.
- 3.12.200 Local improvement guaranty fund – Method of use.
- 3.12.210 Local improvement guaranty fund – Warrant procedure authorized when.
- 3.12.220 Local improvement guaranty fund – Use restrictions – Certification.
- 3.12.230 Park fund – Moneys to be deposited – Use restrictions.
- 3.12.240 Payroll fund – Established – Use.
- 3.12.250 Payroll fund – Recordkeeping required.

- 3.12.260 Payroll fund – Transfer of funds authorized when.
- 3.12.270 Maintenance building construction fund – Established – Use.
- 3.12.280 Public works employment fund – Established – Use.
- 3.12.290 Park facility damage deposits fund – Established.
- 3.12.300 Park facility damage deposits fund – Accounting for moneys received.
- 3.12.310 Internal governmental service fund – Health care benefits – Established.

**3.12.010 Arterial street fund – Established.**

There is created and established in the treasury of the city a new fund to be known as the “arterial street fund.” (Ord. 1392 § 1, 1961).

**3.12.020 Arterial street fund – Moneys to be deposited.**

All moneys collected from the State Treasurer from the one-half cent gas tax allocation, together with 25 percent city matching funds, shall be deposited in said arterial street fund. (Ord. 1392 § 2, 1961).

**3.12.030 Arterial street fund – Use.**

All cost and expense of the arterial street improvements as defined and adopted by resolution of the city council under the six-year street plan be paid from the arterial street fund. (Ord. 1392 § 3, 1961).

**3.12.040 Equipment rental fund – Established – Uses.**

There is created and established in the city a special fund which shall be known and designated as the “equipment rental fund,” to be used as a revolving fund for the maintenance, repair, replacement and purchase of equipment and for the purchase of materials and supplies to be used in the administration of said fund. (Ord. 1487 § 1, 1965).

**3.12.050 Equipment rental fund – Motor equipment included when.**

All motor equipment of the street department shall be transferred to the equipment rental fund as of July 1, 1965. Motor equipment of other departments of the city may be transferred to the equipment rental fund from time to time as the city council shall direct. (Ord. 1487 § 2, 1965).

**3.12.060 Equipment rental fund – Charges and terms of rental.**

The charges for rental of such equipment shall

### 3.12.070

be sufficient to cover the repair, replacement, purchase and operation thereof, and the terms of rental shall be on an annual, monthly, daily, hourly, mileage or other basis as be determined by the mayor, subject to the approval of the city council. A schedule of such charges shall be prepared by the mayor, subject to the approval of the city council. Such rental rates shall be reviewed and if need be, revised periodically to meet changing costs of repair, replacement, purchase, and operations. (Ord. 1487 § 3, 1965).

#### **3.12.070 Equipment rental fund – Recordkeeping and warrants for expenditures.**

There shall be kept such books, accounts and records as are necessary to control and report the financial operations of the equipment rental fund.

All expenditures from the equipment rental fund shall be made by warrant upon the presentation of properly signed city of Mount Vernon vouchers in the same manner as other funds of the city. (Ord. 1487 § 4, 1965).

#### **3.12.080 Equipment rental fund – Expenditure of deposited funds.**

All moneys deposited in said equipment rental fund and not expended as provided herein shall remain in the fund from year to year and shall not be transferred to any other fund or expended for any other purposes whatsoever. (Ord. 1487 § 5, 1965).

#### **3.12.090 Equipment rental fund – Reversion of funds following abolition.**

If, at any time hereafter, the city council shall abolish said equipment rental fund, then all moneys on deposit therein, and all equipment therein, shall revert to the several funds and departments participating in the equipment rental fund. (Ord. 1487 § 6, 1965).

#### **3.12.100 Federal revenue sharing fund – Established.**

There is created and established in the treasury of the city a fund which shall be known as the “federal revenue sharing fund.” (Ord. 1667 § 1, 1972).

#### **3.12.110 Federal revenue sharing fund – Moneys to be included – Expenditure regulations.**

All moneys received from the United States Treasurer under the State and Local Fiscal Assistance Act of 1972 will be placed in the federal revenue sharing fund; and all expenditures from said

fund shall be made in accordance with the budget and accounting laws of the state of Washington and in accordance with the ordinances of the city. (Ord. 1667 § 2, 1972).

#### **3.12.120 Garbage equipment cumulative reserve fund – Established – Administration.**

There is created and established a “garbage equipment cumulative reserve fund,” as provided in Chapter 8.12 MVMC, the same to be administered as provided in said chapter. (Ord. 1082 § 3, 1952).

#### **3.12.130 Garbage warrant redemption fund – Established – Administration.**

There is created and established a “garbage warrant redemption fund,” as provided in Chapter 8.12 MVMC, the same to be administered as provided in said chapter. (Ord. 1082 § 2, 1952).

#### **3.12.140 General claims fund – Established – Use.**

There is created and established in the treasury of the city a fund to be known and designated as the “general claims fund,” from which shall be paid all accounts payable owed to vendors of the city. (Ord. 1710 § 1, 1974).

#### **3.12.150 General claims fund – Record keeping required.**

The city clerk-treasurer is directed to establish and keep all necessary records for the proper administration of said general claims fund. (Ord. 1710 § 2, 1974).

#### **3.12.160 General claims fund – Transfer of funds authorized when.**

Upon receipt of transfer orders the city clerk treasurer shall transfer moneys from other funds each month covering the amount of said general claims; the general claims fund to act in the capacity of a clearing fund only. (Ord. 1710 § 3, 1974).

#### **3.12.170 Health and sanitation fund – Established – Administration.**

There is created and established a “health and sanitation fund,” as provided in Chapter 8.12 MVMC, the same to be administered as provided in said chapter. (Ord. 1117 § 1, 1954; Ord. 1082 § 1, 1952).

#### **3.12.180 Local improvement guaranty fund – Established – Purpose.**

In accordance with Chapter 141, Laws of 1923,

of the state of Washington, the city elects to and does establish and create a special fund in the city treasury to be known as the "local improvement guaranty fund," for the purpose of guaranteeing to the extent of such fund the payment of all bonds issued by the city on and after July 12, 1923, in local improvement districts for the construction of local improvements therein. (Ord. 622 § 1, 1923).

**3.12.190 Local improvement guaranty fund – Moneys to be deposited.**

There shall be paid into such guaranty fund the interest received from bank deposits on all moneys in local improvement assessment districts, the bonds in which are guaranteed by this fund, and also all interest received from bank deposits of the moneys in such guaranty fund. There shall also be paid into such fund all amounts remaining in any local improvement fund after the payment of all outstanding obligations against the same. There shall also be levied from time to time as other taxes are levied such sums as may be needed to meet the financial requirements of the fund guaranteed hereunder, but not exceeding an amount which, together with the other moneys in said fund, equals five percent of the outstanding bond obligations guaranteed by such fund. (Ord. 622 § 2, 1923).

**3.12.200 Local improvement guaranty fund – Method of use.**

Whenever there shall be insufficient money in the local improvement fund of any particular district, the bonds of which are guaranteed under the ordinance codified herein, to pay the interest or principal of any of the bonds issued in such district, at the time the same become due, the city clerk treasurer shall pay such interest or principal of such bond or bonds out of said local improvement guaranty fund to the extent of the moneys therein, and such interest coupons or bonds so paid out of such guaranty fund shall thereupon become the property of said guaranty fund, and whenever there shall be available money in any local improvement fund sufficient to take up one or more of such interest coupons or bonds so held by such guaranty fund, the city clerk-treasurer shall pay such interest coupons or bonds, as the case may be, in the usual way and turn the proceeds of such payment into said guaranty fund. (Ord. 622 § 3, 1923).

**3.12.210 Local improvement guaranty fund – Warrant procedure authorized when.**

In case there shall not be sufficient moneys in the guaranty fund to pay the principal and interest

of any bonds payable therefrom the city clerk-treasurer is authorized and directed to draw warrants upon such funds in payment of the amount due for principal and interest of such bonds so presented for payment out of such guaranty fund, such warrants to draw interest at the rate of six percent per year; provided, however, that no warrants shall be so issued as to cause warrants to be outstanding against such guaranty fund at any one time in an amount exceeding five percent of the outstanding bond obligations guaranteed by such fund; and provided, further, that each year a sufficient amount shall be included in the annual budget and tax levy so that with the other cash resources of the fund all warrants issued during the previous fiscal year will be paid and retired. (Ord. 622 § 4, 1923).

**3.12.220 Local improvement guaranty fund – Use restrictions – Certification.**

After July 12, 1923, local improvement intended to be paid for in whole or in part by special assessments shall be ordered where the estimated cost of such improvement, when added to all other unpaid local improvement assessments against the property included in the district, excluding penalties and interest, shall exceed in amount of 75 percent the actual value of the real property, exclusive of improvements thereon within the district according to the last assessment for purposes of general taxation; provided, however, that nothing in this section shall prevent the city council by unanimous vote from ordering the construction of sanitary sewers where in the judgment of the council the same are necessary for public health and assessing a part or the whole of the cost thereof to the property benefited in the manner provided by law. On or before the time fixed for hearing of any resolution of intention, the city clerk-treasurer shall certify to the council the amount of outstanding and unpaid local improvement assessments against the property included within the proposed improvement district, excluding penalties and interest, and also the actual value of the real property, exclusive of improvements thereon, within the district according to the last assessment for purposes of general taxation. In the absence of fraud or gross mistake such certificate shall be final and conclusive. (Ord. 622 § 5, 1923).

**3.12.230 Park fund – Moneys to be deposited – Use restrictions.**

A fund is created, to be called the "park fund," into which fund shall be put all moneys collected or received by the city for park purposes, and from which shall be paid all obligations incurred for

### 3.12.240

park purposes; provided, that all disbursements shall be made only upon claims and vouchers therefor in the form provided by the clerk-treasurer of the city as for other claims, and after having been approved by the chairman of the board of park commissioners and the city council. (Ord. 647 § 1, 1925).

#### **3.12.240 Payroll fund – Established – Use.**

There is created and established in the treasury of the city a fund to be known and designated as the “payroll fund,” from which shall be paid all salaries and wages to city employees. (Ord. 1502 § 1, 1966).

#### **3.12.250 Payroll fund – Recordkeeping required.**

The city clerk-treasurer is directed to establish and keep all necessary records for the proper administration of the payroll fund. (Ord. 1502 § 2, 1966).

#### **3.12.260 Payroll fund – Transfer of funds authorized when.**

Upon receipt of transfer orders from the city clerk-treasurer, the city clerk-treasurer shall transfer moneys from other funds each month covering the amount of said payroll, the payroll fund to act in the capacity of a clearing fund only. (Ord. 1502 § 3, 1966).

#### **3.12.270 Maintenance building construction fund – Established – Use.**

There is hereby established a new fund designated the “maintenance building construction fund,” which shall be used to pay the costs of construction of the city maintenance building complex, as well as the cost of equipping and providing an inventory for said complex. (Ord. 1847 § 1, 1976).

#### **3.12.280 Public works employment fund – Established – Use.**

There is established a new fund designated the “public works employment fund,” which shall be used to receive and disburse the costs of construction allowed under the grant obtained under the provisions of the Local Public Works Capital Development and Investment Act of 1976, as amended by the Public Works Employment Act of 1977, received by the city and accepted on September 15, 1977. (Ord. 1896 § 1, 1977).

#### **3.12.290 Park facility damage deposits fund – Established.**

There is hereby established in the city general ledger a fund titled “park facility damage deposits.” (Ord. 2088 § 1, 1983).

#### **3.12.300 Park facility damage deposits fund – Accounting for moneys received.**

Unless otherwise determined by the State Auditor, it shall not be necessary to account for damage deposit moneys received on a city treasurer’s receipt, and the same may be recorded on separate receipts to be used for that purpose. (Ord. 2088 § 2, 1983).

#### **3.12.310 Internal governmental service fund – Health care benefits – Established.**

There is hereby established an internal governmental service fund which shall receive contributions from other city operating funds for the payment of claims and administrative expenses associated with health care coverage. Such fund shall be a flexible budget fund with expenditures limited to available resources. Such fund shall be utilized to provide health care benefits as contemplated by the Mount Vernon Personnel Plan and shall be restricted to full-time, permanent, non-union employees, and union employees choosing to participate in the program through contractual agreements entered into as a part of the collective bargaining process. (Ord. 2891 § 1, 1998; Ord. 2502 § 1, 1992).

## Chapter 3.13

## REAL ESTATE EXCISE TAX

## Sections:

- 3.13.010 Imposed – Rate.
- 3.13.015 Additional tax imposed – Rate.
- 3.13.020 Applicability of provisions.
- 3.13.030 Compliance with state provisions.
- 3.13.040 Proceeds distribution and use limitations.
- 3.13.050 Tax deemed lien – Collection.
- 3.13.060 Seller’s obligation to collect – Enforcement.
- 3.13.070 Payment – County powers – Receipts.
- 3.13.080 Payment – County powers – Due date.
- 3.13.090 Overpayments, improper payments and refunds.

**3.13.010 Imposed – Rate.**

There is hereby imposed a tax at the rate of one-quarter of one percent of the selling price on each sale of real property within the corporate limits of the city. (Ord. 2194 § 1, 1985).

**3.13.015 Additional tax imposed – Rate.**

There is hereby imposed an additional tax at the rate of one-quarter of one percent of the selling price on each sale of real property within the corporate limits of the city. (Ord. 3381 § 1, 2007; Ord. 3153 § 1, 2003; Ord. 2956 § 1, 1999; Ord. 2801 § 1, 1997).

**3.13.020 Applicability of provisions.**

Taxes imposed herein shall be collected from persons who are taxable by the state under Chapter 82.45 RCW and Chapter 458-61 WAC upon the occurrence of any taxable event as therein defined within the corporate limits of the city. (Ord. 2194 § 2, 1985).

**3.13.030 Compliance with state provisions.**

The taxes imposed in this chapter shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state under Chapter 82.45 RCW and Chapter 458-61 WAC. The provisions of those chapters, to the extent they are not inconsistent with this chapter, shall apply as though fully set forth herein. (Ord. 2194 § 3, 1985).

**3.13.040 Proceeds distribution and use limitations.**

A. The county treasurer shall place one percent of the proceeds of the taxes imposed herein in the county current expense fund to defray costs of collection.

B. The remaining proceeds from the taxes imposed pursuant to MVMC 3.13.010 shall be distributed to the city monthly and shall be placed by the city finance director in a separate municipal capital improvements fund for the purposes and uses authorized by the terms of RCW 82.46.010, as such section now exists or may hereafter be amended.

C. The remaining proceeds from the taxes imposed pursuant to MVMC 3.13.015 shall be distributed to the city monthly and shall be placed by the city finance director in a separate municipal improvements fund to be used solely for financing of public work projects for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of existing streets, existing roads, existing highways, sidewalks, street and road lighting systems, traffic signals or bridges.

D. This section shall not limit the existing authority of the city to impose special assessments on property benefited thereby in the manner prescribed by law. (Ord. 3153 § 2, 2003; Ord. 2956 § 2, 1999; Ord. 2801 § 2, 1997; Ord. 2208 § 1, 1986; Ord. 2194 § 4, 1985).

**3.13.050 Tax deemed lien – Collection.**

Any tax imposed by this chapter and any interest or penalties therein is a specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other. (Ord. 2194 § 5, 1985).

**3.13.060 Seller’s obligation to collect – Enforcement.**

The taxes imposed in this chapter are the obligation of the seller and may be enforced through an action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other. (Ord. 2194 § 6, 1985).

**3.13.070 Payment – County powers – Receipts.**

The taxes imposed in this chapter shall be paid to and collected by the treasurer of Skagit County.

### 3.13.080

The county treasurer shall act as agent for the city. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed herein shall be evidence of the satisfaction of the lien imposed in MVMC 3.13.050 and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the county treasurer. (Ord. 2194 § 7, 1985).

### 3.13.080 Payment – County powers – Due date.

The tax imposed in this chapter shall become due and payable immediately at the time of sale and, if not so paid within 30 days thereafter, shall bear interest at the rate of one percent per month from the time of sale until the date of payment. (Ord. 2194 § 8, 1985).

### 3.13.090 Overpayments, improper payments and refunds.

If, upon written application by a taxpayer to the county treasurer for a refund, it appears a tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the county treasurer to the taxpayer; provided, that no refund shall be made unless the state has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of a miscalculation. Any refund made shall be withheld from the next monthly distribution to the city. (Ord. 2194 § 9, 1985).

## Chapter 3.14

### LEASEHOLD EXCISE TAX

#### Sections:

- 3.14.010 Levied – Payment.
- 3.14.020 Rate – Credits.
- 3.14.030 Administration and collection.
- 3.14.040 Exemptions.
- 3.14.050 Inspection of records.
- 3.14.060 Authorization to execute contract.

#### 3.14.010 Levied – Payment.

There is levied and shall be collected a leasehold excise tax on and after January 1, 1976, upon the act or privilege of occupying or using publicly owned real or personal property within the city through a “leasehold interest” as defined by Section 2, Chapter 61, Laws of 1975-76, Second Extraordinary Session (hereafter “the state act”). The tax shall be paid, collected, and remitted to the Department of Revenue of the state of Washington at the time and in the manner prescribed by Section 5 of the state act. (Ord. 1830 § 1, 1976).

#### 3.14.020 Rate – Credits.

The rate of the tax imposed by MVMC 3.14.010 shall be four percent of the taxable rent, as defined by Section 2 of the state act; provided, that the following credits shall be allowed in determining the tax payable:

A. With respect to a leasehold interest arising out of any lease or agreement, the terms of which were binding on the lessee prior to July 1, 1970, where such lease or agreement has not been renegotiated, as defined by Section 2 of the state act, since that date, and excluding from such credit any leasehold interest arising out of any lease of property covered by the provisions of RCW 28B.20.394 and any lease or agreement including options to renew which extends beyond January 1, 1985, as follows:

1. With respect to taxes due in calendar year 1976, a credit equal to 80 percent of the tax produced by the above rate;
2. With respect to taxes due in calendar year 1977, a credit equal to 60 percent of the tax produced by the above rate;
3. With respect to taxes due in calendar year 1978, a credit equal to 40 percent of the tax produced by the above rate;
4. With respect to taxes due in calendar year 1979, a credit equal to 20 percent of the tax produced by the above rate.

B. With respect to a product lease, as defined by Section 2 of the state act, a credit of 33 percent of the tax produced by the above rate. (Ord. 1830 § 1, 1976).

**3.14.030 Administration and collection.**

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of the state act. (Ord. 1830 § 1, 1976).

**3.14.040 Exemptions.**

Leasehold interest exempted by Section 13 of the state act as it now exists or may hereafter be amended shall be exempt from the tax imposed pursuant to MVMC 3.14.010. (Ord. 1830 § 1, 1976).

**3.14.050 Inspection of records.**

The city consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue pursuant to RCW 82.32.330. (Ord. 1830 § 1, 1976).

**3.14.060 Authorization to execute contract.**

The mayor is authorized to execute a contract with the Department of Revenue of the state of Washington for the administration and collection of the tax imposed by MVMC 3.14.010; provided, that the city attorney shall first approve the form and content of said contract. (Ord. 1830 § 1, 1976).

**Chapter 3.15**

**LODGING EXCISE TAX**

Sections:

- 3.15.010 Levied.
- 3.15.020 Definitions.
- 3.15.030 Additional to other fees and taxes.
- 3.15.040 Fund created.
- 3.15.050 Administration and collection.
- 3.15.060 Violation – Penalty.

**3.15.010 Levied.**

There is levied a special excise tax of four percent on the sale of or charge made for the furnishing of lodging that is subject to tax under Chapter 82.08 RCW. The tax imposed under Chapter 82.08 RCW applies to the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. (Ord. 2859 § 1, 1997).

**3.15.020 Definitions.**

The definitions of “selling price,” “seller,” “buyer,” “consumer,” and all other definitions as are now contained in RCW 82.08.010, and subsequent amendments thereto, are adopted as the definitions for the tax levied in this chapter. (Ord. 2859 § 2, 1997).

**3.15.030 Additional to other fees and taxes.**

The tax levied in this chapter shall be in addition to any license fee or any other tax imposed or levied under any law or any other ordinance of the city; provided, the first two percent of the tax shall be deducted from the amount of tax the seller would otherwise be required to collect and pay to the Department of Revenue under Chapter 82.08 RCW. (Ord. 2859 § 3, 1997).

**3.15.040 Fund created.**

There is created a special fund in the treasury of the city and all taxes collected under this chapter shall be placed in this special fund to be used solely for the purpose of paying all or any part of the cost of tourist promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities or to pay for any other uses as authorized in Chap-

### 3.15.050

ter 67.28 RCW, as now or hereafter amended. (Ord. 2859 § 4, 1997).

#### **3.15.050 Administration and collection.**

For the purposes of the tax levied in this chapter:

A. The Department of Revenue is designated as the agent of the city for the purposes of collection and administration of the tax.

B. The administrative provisions contained in RCW 82.08.050 through 82.08.070 and in Chapter 82.32 RCW shall apply to administration and collection of the tax by the Department of Revenue.

C. All rules and regulations adopted by the Department of Revenue for the administration of Chapter 82.08 RCW are adopted by reference.

D. The Department of Revenue is authorized to prescribe and utilize such forms and reporting procedures as the Department may deem necessary and appropriate. (Ord. 2859 § 5, 1997).

#### **3.15.060 Violation – Penalty.**

It is unlawful for any person, firm, or corporation to violate or fail to comply with any of the provisions of this chapter. Every person convicted of a violation of any provision of this chapter shall be punished by a fine in a sum not to exceed \$500.00. Each day of violation shall be considered a separate offense. (Ord. 2859 § 6, 1997).

## **Chapter 3.16**

### **SALES OR USE TAX**

Sections:

- 3.16.010 Imposition – Statutory authority.
- 3.16.020 Amounts authorized.
- 3.16.030 Administration and collection.
- 3.16.040 Records inspection – Consent granted.
- 3.16.050 Mayor authorized to contract with state.
- 3.16.060 Failure or refusal to collect deemed misdemeanor when.

#### **3.16.010 Imposition – Statutory authority.**

There is imposed a sales or use tax, as the case may be, upon every taxable event, as defined in RCW 82.14.020, occurring within the city of Mount Vernon. The tax shall be imposed upon and collected from those persons from whom the state sales or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW. (Ord. 1594 § 1, 1970).

#### **3.16.020 Amounts authorized.**

The rate of the tax imposed by MVMC 3.16.010 shall be one-half of one percent of the selling price or value of the article used, as the case may be. Provided, however, that during such period as there is in effect a sales or use tax imposed by Skagit County, the rate of tax imposed by this chapter shall be four hundred twenty-five one-thousandths of one percent. (Ord. 1594 § 2, 1970).

#### **3.16.030 Administration and collection.**

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050. (Ord. 1594 § 3, 1970).

#### **3.16.040 Records inspection – Consent granted.**

The city consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330. (Ord. 1594 § 4, 1970).

#### **3.16.050 Mayor authorized to contract with state.**

The mayor of the city is authorized to enter into a contract with the Washington State Department of Revenue for the administration of the tax imposed by this chapter. (Ord. 1594 § 5, 1970).

**3.16.060 Failure or refusal to collect deemed misdemeanor when.**

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. (Ord. 1594 § 6, 1970).

**Chapter 3.20****ADDITIONAL SALES OR USE TAX**

## Sections:

- 3.20.010 Imposition of sales or use tax.
- 3.20.020 Rate of tax imposed.
- 3.20.030 Administration and collection of tax.
- 3.20.040 Consent to inspection of records.
- 3.20.050 Contract for administration of tax by state.
- 3.20.060 Provisions subject to special referendum.
- 3.20.070 Violation – Penalty.

**3.20.010 Imposition of sales or use tax.**

There is imposed a sales or use tax, as the case may be, as authorized by RCW 82.14.030(2), upon every taxable event, as defined in RCW 82.14.020, occurring within the city. The tax shall be imposed upon and collected from those persons from whom the state sales tax is collected pursuant to Chapters 28.08 and 82.12 RCW. (Ord. 2108 § 1, 1983).

**3.20.020 Rate of tax imposed.**

The rate of the tax imposed by MVMC 3.20.010 shall be one-half of one percent of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect a sales tax or use tax imposed by Skagit County under Section 17(2), Chapter 49, Laws of 1982, First Extraordinary Session at a rate equal to or greater than the rate imposed by this section, the county shall receive 15 percent of the tax imposed by MVMC 3.20.010; provided further, that during such period as there is in effect a sales tax or use tax imposed by Skagit County under Section 17(2), Chapter 49, Laws of 1982, First Extraordinary Session at a rate which is less than the rate imposed by this section, the county shall receive from the tax rate imposed by MVMC 3.20.010 that amount of revenue equal to 15 percent of the rate of the tax imposed by the county under Section 17(2), Chapter 49, Laws of 1982, First Extraordinary Session. (Ord. 2108 § 2, 1983).

**3.20.030 Administration and collection of tax.**

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050. (Ord. 2108 § 3, 1983).

**3.20.040 Consent to inspection of records.**

The city consents to the inspection of such records as are necessary to qualify the city for

### 3.20.050

inspection of records of the Department of Revenue, pursuant to RCW 82.32.330. (Ord. 2108 § 4, 1983).

### 3.20.050 Contract for administration of tax by state.

The mayor and clerk-treasurer are authorized to enter into a contract with the Department of Revenue for the administration of this tax. (Ord. 2108 § 5, 1983).

### 3.20.060 Provisions subject to special referendum.

The ordinance codified in this chapter shall be subject to a special referendum procedure. The number of registered voters needed to sign a petition for special referendum shall be 15 percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding municipal general election. If a special referendum petition is filed with the city clerk treasurer, who shall be the filing officer for purposes of the referendum procedure, said ordinance shall be subject to ratification or repeal depending on the final vote at an election held for that purpose. The procedure for referendum contained in Section 2, Chapter 99, Laws of 1983, Regular Session and Chapter 3.28 MVMC shall apply to such a petition. (Ord. 2108 § 6, 1983).

### 3.20.070 Violation – Penalty.

Any seller who fails to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined no more than \$500.00 or imprisoned for not more than six months, or by both such fine and imprisonment. (Ord. 2108 § 7, 1983).

## Chapter 3.22

### NATURAL OR MANUFACTURED GAS TAX<sup>1</sup>

#### Sections:

- 3.22.010 Imposed.
- 3.22.020 Exemptions.
- 3.22.030 Credit.
- 3.22.040 Administration and collection.

### 3.22.010 Imposed.

As authorized by RCW 82.14.230, there is hereby fixed and imposed on every person a use tax for the privilege of using natural gas or manufactured gas in the city of Mount Vernon as a consumer. The tax shall be in an amount equal to the value of the article used by the taxpayer multiplied by the rate of tax on the business of selling or furnishing gas for domestic, business, or industrial consumption set forth in MVMC 5.48.050(A). The “value of the article used” shall have the meaning set forth in RCW 81.12.010(1), and does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this section if those amounts are subject to tax under MVMC 5.48.050(A). (Ord. 2897 § 1(A), 1998).

### 3.22.020 Exemptions.

The tax imposed under this section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under MVMC 5.48.050(A) with respect to the gas for which exemption is sought under this section. (Ord. 2897 § 1(B), 1998).

### 3.22.030 Credit.

There shall be a credit against the tax levied under this chapter in an amount equal to any tax paid by:

A. The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to MVMC 5.48.050(A) by another state with respect to the gas for which a credit is sought under this section; or

B. The person consuming the gas upon which a use tax similar to the tax imposed by this chapter was paid to another state with respect to the gas for which a credit is sought under this section. (Ord. 2897 § 1(C), 1998).

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1. For the tax on providers or utility services, see Chapter 5.48 MVMC.

**3.22.040 Administration and collection.**

The use tax hereby imposed shall be paid by the consumer. The administration and collection of the tax hereby imposed shall be by the Washington State Department of Revenue pursuant to RCW 82.14.050. (Ord. 2897 § 1(D), 1998).

**Chapter 3.24****REWARD FOR INFORMATION ON  
PROPERTY DESTRUCTION**

## Sections:

- 3.24.010 Amount – Offered.
- 3.24.020 Amount – Paid when.
- 3.24.030 Offer to continue until when.
- 3.24.040 Amount – To be prorated when.
- 3.24.050 Claims to be filed in writing when.

**3.24.010 Amount – Offered.**

A reward in the amount of \$100.00 is offered by the city for information leading to the arrest and conviction of any person or persons who shall willfully or maliciously destroy or injure any real or personal property belonging to the city. (Ord. 992 § 1, 1948).

**3.24.020 Amount – Paid when.**

The reward set forth in MVMC 3.24.010 will be paid to the person or persons furnishing such information and 10 days after final conviction of the person or persons accused. (Ord. 992 § 2, 1948).

**3.24.030 Offer to continue until when.**

The offer or reward made in this chapter shall be continuing until the repeal of this chapter. (Ord. 992 § 3, 1948).

**3.24.040 Amount – To be prorated when.**

In the event the information necessary for conviction is given by more than one person, the reward shall be prorated among the persons furnishing the said information. (Ord. 992 § 4, 1948).

**3.24.050 Claims to be filed in writing when.**

Any person or persons claiming reward under this chapter shall file written claim therefor with the city clerk-treasurer within 10 days of the date of conviction of the accused. (Ord. 992 § 5, 1948).

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**Chapter 3.28**

**SPECIAL REFERENDUM TO IMPOSE OR ALTER TAX**

Sections:

- 3.28.010 Special referendum – Statutory authority.
- 3.28.020 Referendum petition procedure.

**3.28.010 Special referendum – Statutory authority.**

Every ordinance imposing or altering a sales tax under RCW 82.14.030(2); and every ordinance imposing or altering an excise tax on the sale of real property under RCW 82.46.010(2) shall be subject to a special referendum procedure as provided in this chapter and Sections 2 and 3, Chapter 99, Laws of 1983, Regular Session. (Ord. 2107 § 1, 1983).

**3.28.020 Referendum petition procedure.**

A. Any referendum petition to reveal a tax ordinance referred to in MVMC 3.28.010 shall be filed with the city clerk-treasurer within seven days of passage of the ordinance. Within 10 days, the city clerk-treasurer shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or tax rate increase being imposed, and a negative answer to the question and a negative vote on the measure results in the tax or tax rate increase not being imposed. The petitioner shall be notified of the identification number and ballot title within this 10-day period.

B. After this notification, the petitioner shall have 30 days in which to secure on petition forms the signatures of not less than 15 percent of the registered voters of the city and to file the signed petitions with the city clerk treasurer. Each petition form shall contain the ballot title and the full text of the measure to be referred. The city clerk-treasurer shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the city clerk-treasurer shall submit the referendum measure to the city voters at a general or special election held on one of the dates provided in RCW 29.13.010 as determined by the city council which election shall not take place later than 120 days after the signed petitions have been filed with the filing officer. (Ord. 2107 § 2, 1983).

**Chapter 3.32**

**BOND REGISTRATION**

Sections:

- 3.32.010 Findings.
- 3.32.020 Definitions.
- 3.32.030 Adoption of registration system.
- 3.32.040 Statement of transfer restrictions.

**3.32.010 Findings.**

The city council finds that it is in the city’s best interest to establish a system of registering the ownership of the city’s bonds and obligations in the manner permitted by law. (Ord. 2172 § 2, 1985).

**3.32.020 Definitions.**

The following words shall have the following meanings when used in this chapter:

A. The term “bond” or “bonds” shall have the meaning defined in RCW 39.46.020(1), as the same may be from time to time amended.

B. “City” means the city of Mount Vernon, Washington.

C. “Fiscal agencies” means the duly appointed fiscal agencies of the state of Washington serving as such at any given time.

D. The term “obligation” or “obligations” shall have the meaning defined in RCW 39.46.020(3), as the same from time to time may be amended.

E. “Registrar” means the person or persons designated by the city to register ownership of bonds or obligations under this chapter. (Ord. 2172 § 1, 1985).

**3.32.030 Adoption of registration system.**

The city adopts the following system of registering the ownership of its bonds and obligations.

A. Registration Requirement. All bonds and obligations offered to the public, having a maturity of more than one year and issued by the city after June 30, 1983, on which the interest is intended to be exempt from federal income taxation, shall be registered as to both principal and interest as provided in this chapter.

B. Method of Registration. The registration of all city bonds and obligations required to be registered shall be carried out either by:

1. A book entry system of recording the ownership of the bond or obligation on the books of the city or the fiscal agencies, whether or not a physical instrument is issued; or

2. Recording the ownership of the bond or obligation and requiring as a condition of the trans-

### 3.32.040

fer of ownership of any bond or obligation the surrender of the old bond or obligation and either the reissuance of the old bond or obligation or the issuance of a new bond or obligation to the new owners.

No transfer of any bond or obligation subject to registration requirements shall be effective until the name of the new owner and the new owner's mailing address, together with such other information deemed appropriate by the registrar, shall be recorded on the books of the registrar.

C. Denominations. Except as may be provided otherwise by the ordinance authorizing their issuance, registered bonds or obligations may be issued and reissued in any denomination up to the outstanding principal amount of the bonds or obligations of which they are a part. Such denominations may represent all or a part of a maturity or several maturities and on reissuance may be in smaller amounts than the individual denominations for which they are reissued.

D. Appointment of Registrar. Unless otherwise provided in the ordinance authorizing the issuance of registered bonds or obligations, the city finance director shall be the registrar for all registered interest-bearing warrants, installment contracts, interest-bearing leases and other registered bonds or obligations not usually subject to trading without a fixed maturity date or maturing one year or more after issuance and the fiscal agencies shall be the registrar for all other city bonds and obligations without a fixed maturity date or maturing one year or more after issuance.

E. Duties of Registrar. The registrar shall serve as the city's authenticating trustee, transfer agent, registrar and paying agent for all registered bonds and obligations for which he, she, or it serves as registrar and shall comply fully with all applicable federal and state laws and regulations respecting the carrying out of those duties.

The rights, duties, responsibilities and compensation of the registrar shall be prescribed in each ordinance authorizing the issuance of the bonds or obligations, which rights, duties, responsibilities and compensation shall be embodied in a contract executed by the city finance director and the registrar, except in instances when the fiscal agencies serve as registrar, the city adopts by reference the contract between the State Finance Committee of the state of Washington and the fiscal agencies in lieu of executing a separate contract and prescribing by ordinance the rights, duties, obligations and compensation of the registrar. When the city finance director serves as registrar, a separate contract shall not be required.

In all cases when the registrar is not the fiscal agencies and the obligation is assignable, the ordinance authorizing the issuance of the registered bonds or obligations shall specify the terms and conditions of:

1. Making payments of principal and interest;
2. Printing any physical instruments, including the use of identifying numbers or other designation;
3. Specifying record and payment dates;
4. Determining denominations;
5. Establishing the manner of communicating with the owners of the bonds or obligations;
6. Establishing the methods of receipting for the physical instruments for payment of principal, the destruction of such instruments and the certification of such destruction;
7. Registering or releasing security interests, if any; and
8. Such other matters pertaining to the registration of the bonds or obligations authorized by such ordinance as the city may deem to be necessary or appropriate. (Ord. 2172 § 3, 1985).

#### **3.32.040 Statement of transfer restrictions.**

Any physical instrument issued or executed by the city subject to registration under this chapter shall state on its face that the principal of and interest on the bonds or obligations shall be paid only to the owner thereof registered as such on the books of the registrar as of the record date defined in the instrument and to no other person, and that such instrument, either principal or interest, may not be assigned except on the books of the registrar. (Ord. 2172 § 4, 1985).

**Chapter 3.36**

**IMPACT FEES FOR SCHOOL FACILITIES\***

Sections:

- 3.36.010 Findings and authority.
- 3.36.020 Definitions.
- 3.36.030 Findings of adequacy.
- 3.36.040 Assessment of impact fees.
- 3.36.050 Exemptions.
- 3.36.060 Credits.
- 3.36.070 Tax adjustments.
- 3.36.080 Appeals.
- 3.36.090 Authorization for the school interlocal agreement and the establishment of the schools impact account.
- 3.36.100 Refunds.
- 3.36.110 Use of funds.
- 3.36.120 Review.
- 3.36.130 School impact fees and administrative fees.
- 3.36.140 Fee adjustments.
- 3.36.150 Independent fee calculations.
- 3.36.160 Existing authority unimpaired.

\* Code reviser’s note: Appendix A, referred to throughout this chapter, was repealed and replaced by Ord. 3391.

**3.36.010 Findings and authority.**

The city council of the city of Mount Vernon (the “council”) finds and determines that new growth and development in the city of Mount Vernon will create additional demand and need for school facilities in the city of Mount Vernon, and the council finds that new growth and development should pay a proportionate share of the cost of new school facilities needed to serve the new growth and development. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this chapter to assess impact fees for school facilities. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. 2552 § 1, 1993).

**3.36.020 Definitions.**

The following definitions shall apply for purposes of this chapter unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

1. “Act” means the Growth Management Act, Chapter 17, Laws of 1990, 1st Ex. Sess., Chapter 36.70A RCW et seq., and Chapter 32, Laws of

1991, 1st Sp. Sess., as now in existence or as hereafter amended.

2. “Affordable housing” means units to be sold or rented to families earning less than 80 percent of the Skagit County median income adjusted for family size, as determined by the U.S. Department of Housing and Urban Development.

3. “Boundary line adjustment” shall have the same meaning as set forth in Chapter 16.36 MVMC.

4. “Building permit” means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. For purposes of this chapter, “building permit” also includes a mobile home permit.

5. “Capital facilities” means the facilities or improvements included in a capital budget.

6. “Capital facilities plan” or the “plan” means the capital facilities plan adopted by the board of directors of Mount Vernon School District No. 320.

7. “City” means the city of Mount Vernon.

8. “Council” means the city council of the city of Mount Vernon.

9. “County” means Skagit County.

10. “Department” means the city of Mount Vernon planning department.

11. “Development activity” means any construction or expansion of a residential building or structure, or the siting of a mobile home, or any change in use of a residential building or structure or mobile home, or any change in use of land that creates additional demand and need for school facilities.

12. “Development approval” means any written authorization from the city of Mount Vernon, other than a building permit, which authorizes the commencement of a development activity, including, but not limited to, plat approval, PUD approval, binding site plan approval, mobile home park district approval, boundary line adjustment, and a conditional use permit.

13. “Director” means the director of the city of Mount Vernon planning department.

14. “District No. 320” or the “district” means the Mount Vernon School District No. 320, Skagit County, Washington.

15. “Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

### 3.36.030

16. “Fee payer” is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a development activity which creates the demand for additional school facilities, and which requires development approval and/or the issuance of a building permit. “Fee payer” includes an applicant for an impact fee credit.

17. “Impact fee” means a payment of money imposed by the city of Mount Vernon on development activity pursuant to this chapter as a condition of granting development approval and/or a building permit in order to pay for the school facilities needed to serve new growth and development. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, the cost of reviewing independent fee calculations, or the administrative fee required for an appeal pursuant to MVMC 3.36.080.

18. “Impact fee account” or “account” means the account established for the school facilities for which impact fees are collected. The accounts shall be established pursuant to MVMC 3.36.090, and comply with the requirements of RCW 82.02.070.

19. “Independent fee calculation” means the school impact calculation, and/or economic documentation prepared by a fee payer, to support the assessment of an impact fee other than by the use of the schedule attached as Appendix A to the ordinance codified in this chapter, or the calculations prepared by the director or District No. 320 where none of the fee categories or fee amounts in Appendix A accurately describe or capture the impacts of the new development on school facilities.

20. “Interest” means the average interest rate earned by District No. 320 in the last fiscal year, if not otherwise defined.

21. “Interlocal agreement” or “agreement” means the school interlocal agreement by and between the city of Mount Vernon and District No. 320 as authorized in MVMC 3.36.090.

22. “Mobile home park district” shall have the same meaning as set forth in Chapter 17.39 MVMC.

23. “Owner” means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

24. “Planned unit development” or “PUD” shall have the same meaning as set forth in Chapter 17.69 MVMC.

25. “School facilities” means facilities owned or operated by District No. 320, or the facilities or improvements included in the district’s capital budget and/or capital facilities plan.

26. “Standard of service” means the standard adopted by District No. 320 which identifies the program year, the class size by grade span and taking into account the requirements of students with special needs, the program capacity, the number of classrooms, the types of facilities the district believes will best serve its student population, and other factors as identified by the district. The district’s standard of service shall not be adjusted for any portion of the classrooms housed in portable facilities which are used as transitional facilities or for any specialized facilities housed in portable facilities. Except as otherwise defined by the school board pursuant to a board resolution, transitional facilities shall mean those facilities that are used to cover the time required for the construction of permanent facilities.

27. “State” means the state of Washington.

28. “Voluntary agreement” means an agreement between a developer and District No. 320 as authorized by RCW 82.02.020. (Ord. 3391 § 3, 2008; Ord. 2842 § 1, 1997; Ord. 2552 § 2, 1993).

#### **3.36.030 Findings of adequacy.**

A. Compliance with this requirement shall be sufficient to satisfy the requirements of RCW 58.17.110, 58.17.060, and the Act. The findings shall be made at the time of preliminary plat, PUD, binding site plan or other development approval.

B. The city shall not approve applications for preliminary plats, PUDs or binding site plans, or grant other development approvals, unless the city is able to make the findings of adequacy; provided, that if the fee payer opts to dedicate land, to provide improvements, and/or construction consistent with the requirements of MVMC 3.36.060 governing credits, where appropriate, the city may make such findings.

C. If any party for any reason is able to exempt itself from the operation of this chapter, the city reserves the right to review its land use plan in conjunction with its capital facilities plan in order to ensure adequacy. In the event that the impact fees that might have been paid would have been an integral part of the financing to ensure adequacy, the city reserves the right to deny approval for the development on these grounds. (Ord. 3318 § 1, 2006).

**3.36.040 Assessment of impact fees.**

A. The city shall collect impact fees from any applicant seeking a building permit from the city for any development activity within the city. This shall include, but is not limited to, the development of residential buildings, and may include the expansion of existing uses which creates a demand for additional school facilities. Fees shall be determined using the impact fee schedule in effect at the time of building permit application.

B. Applicants seeking the issuance of a building permit from the city for development activity where the property is located outside the boundaries of District No. 320 shall not be required to pay the school impact fee set forth in the impact fee schedule in Appendix A to the ordinance codified in this chapter.

C. If on the effective date of the ordinance codified in this chapter any plat or PUD has already received final approval and such plat or PUD has paid 50 percent of the impact fees at the time of final approval, the remaining 50 percent of the impact fees shall be assessed and collected from the fee payer at the time the building permits are issued, using the impact fee schedule in effect at the time of building permit application. If on the effective date of the ordinance codified in this chapter a binding site plan has already received approval, the full amount of the impact fees shall be assessed and collected from the fee payer at the time the building permits are issued, using the impact fee schedule in effect at the time of building permit application. If on the effective date of the ordinance codified in this chapter all other necessary development approval has been granted, the full amount of the impact fees shall be assessed and collected from the fee payer at the time the building permits are issued, using the impact fee schedule in effect at the time of building permit application.

D. Except as provided in subsection C of this section, or due to exemptions or credits provided pursuant to MVMC 3.36.050 or 3.36.060, or pursuant to an independent fee calculation accepted by the director pursuant to MVMC 3.36.150, or fees imposed by the director pursuant to MVMC 3.36.150, the city shall not issue the required building permit(s) unless and until the impact fees set forth in the schedule in Appendix A to the ordinance codified in this chapter have been paid. (Ord. 3391 § 3, 2008; Ord. 3318 § 2, 2006).

**3.36.050 Exemptions.**

A. The following shall be exempted from the payment of all impact fees:

1. Any form of housing exclusively for the elderly, including nursing homes and retirement centers, so long as these uses are maintained and the necessary covenants or declarations of restrictions, approved by District No. 320, are recorded on the property. The department shall keep a sample covenant on file and shall provide a copy of the sample covenant upon request.

2. Any form of housing exclusively used for emergency shelters, including housing provided under local, state and federal programs, so long as these uses are maintained and the necessary covenants or declaration or restrictions, approved by District No. 320, are recorded on the property. The department shall keep a sample covenant on file and shall provide a copy of the sample covenant upon request.

3. Replacement of a residential structure or mobile home with a new residential structure or mobile home of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure or the removal of the mobile home.

4. Alterations or expansion or enlargement or remodeling or rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.

5. The construction of accessory residential structures that will not create significant impacts on school facilities.

6. Miscellaneous improvements, including but not limited to fences, walls, swimming pools, and signs.

7. Demolition or moving of a structure.

8. Construction of affordable housing where the affordable housing unit is a one-to-one replacement for a demolished dwelling unit previously sited at another location within the city and where no new housing can be built on the same lot as the demolished dwelling unit, so long as these uses are maintained and the necessary covenants or declarations of restrictions, approved by District No. 320, are recorded on the property. The request for the exemption shall be filed with the city within 24 months of the demolition or destruction of the prior structure or the removal of the mobile home. The director shall place a notation on the property of the demolished dwelling unit or mobile home lot to indicate that a new dwelling unit or mobile home cannot be built or sited on the same lot unless an impact fee is paid at the time of building permit issuance.

B. Except as otherwise provided pursuant to the terms of a voluntary agreement entered into between District No. 320 and a developer, the pay-

### 3.36.060

ment of fees, the dedication of land, or the construction of a school facility by the developer pursuant to the terms of a voluntary agreement entered into between District No. 320 and a developer prior to the effective date of the ordinance codified in this chapter shall be deemed to be complete mitigation for the impacts of the specific development on District No. 320. The units in the identified development shall be exempt from the payment of school impact fees for District No. 320. The developer shall provide to the director documentation demonstrating compliance with the terms of the voluntary agreement.

C. Except as otherwise provided pursuant to the terms of a plat condition or a SEPA mitigation condition imposed prior to the effective date of the ordinance codified in this chapter, the payment of fees, the dedication of land, or the construction of a school facility by the developer pursuant to the terms of a plat condition or a SEPA mitigation condition imposed prior to the effective date of the ordinance codified in this chapter shall be deemed to be complete mitigation for the impacts of the specific development on District No. 320. The units in the identified development shall be exempt from the payment of school impact fees for District No. 320. The developer shall provide to the director documentation demonstrating compliance with the terms of the plat condition or SEPA mitigation condition.

D. The director shall be authorized to determine, after consultation with the district, whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in MVMC 3.36.080. (Ord. 3318 § 3, 2006).

#### 3.36.060 Credits.

A. After the effective date of the ordinance codified in this chapter, developer site dedications, construction of school facilities, or improvements to school facilities shall be governed by this section. The fee payer shall direct the request for a credit or credits to the director who shall forward the request to District No. 320. The district shall first determine the general suitability of the land, improvements, and/or construction for district purposes. The district shall then determine whether the land, improvements, and/or the facility constructed are included within the district's adopted capital facilities plan or the board of directors for District No. 320 may make the finding that such land, improvements, and/or facilities would serve the

goals and objectives of the district's capital facilities plan. The district shall forward its determination to the director, including cases where the district determines that the dedicated land, improvements, and/or construction are not suitable for district purposes. The director shall adopt the determination of District No. 320, and shall inform the applicant, in writing, of the adoption of the district's determination.

B. For each request for a credit or credits, once District No. 320 has determined that the land, improvements, and/or construction would be suitable for district purposes, District No. 320 shall select an appraiser. The appraiser shall be directed to determine for the district the value of the dedicated land, improvements, or construction provided by the fee payer on a case-by-case basis.

C. The fee payer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the fee payer, in the event that a credit is awarded.

D. After receiving the appraisal and after consultation with District No. 320, the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the site donated, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

E. Any claim for credit must be made no later than 20 calendar days after the submission of an application for a building permit.

F. For each request for a credit for significant past tax payments made for particular school system improvements, the fee payer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular school system improvements.

G. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in MVMC 3.36.080. (Ord. 2552 § 6, 1993).

#### 3.36.070 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the capital facilities plan has

provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the particular school system improvements which will serve the new development. The impact fee schedule in Appendix A has been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund particular school system improvements. (Ord. 3391 § 3, 2008; Ord. 2552 § 7, 1993).

### **3.36.080 Appeals.**

A. Any fee payer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit. Appeals regarding the impact fees imposed on any development activity may only be taken by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fees at issue have been paid.

B. The director's determinations with respect to the applicability of the impact fees to a given development activity and/or building permit, the availability of an exemption, the availability or value of a credit, or the director's decision concerning the independent fee calculation which is authorized in MVMC 3.36.150, or the fees imposed by the director pursuant to MVMC 3.36.150, or any other determination which the director is authorized to make pursuant to this chapter, can be appealed to the hearing examiner.

C. If the director makes a determination on an adjustment, credit, exemption, or independent fee calculation contrary to or inconsistent with the determination or analysis prepared by District No. 320, the district may appeal the director's determination to the hearing examiner.

D. Appeals shall be taken within 10 working days of the director's issuance of a written determination by filing with the hearing examiner a notice of appeal specifying the grounds thereof, and depositing an administrative fee in the amount of \$300.00. The director shall transmit to the hearing examiner all papers constituting the record for the determination, including where appropriate the independent fee calculation.

E. The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same. At the hearing, any party may appear in person or by agent or attorney. If the matter which is the subject of the appeal requires development approval which also requires a hearing before the hearing examiner, both the appeal and the development approval hearing may be combined in a single hearing.

F. The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

G. The hearing examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded upon a determination that it is proper to do so based on principles of fairness, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers which have been granted to the director by this chapter.

H. District No. 320 or any fee payer who believes that the decision of the hearing examiner is based on erroneous procedures, errors of law or fact, error in judgment, or has discovered new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the hearing examiner within 10 working days of the date the decision is rendered. Such fee payer or district is the "appellant" for the purposes of this section. This request shall set forth the specific errors or new information relied upon by such appellant, and the hearing examiner may, after review of the record, take further action as it deems proper.

I. The filing of a request for reconsideration shall effectively stay the appeal period until the hearing examiner takes further action.

J. Where the hearing examiner determines that there is a flaw in the impact fee program or that a specific exemption or credit should be awarded on a consistent basis or that the principles of fairness require amendments to this chapter, the hearing examiner may advise the city council as to any question or questions that the hearing examiner believes should be reviewed as part of the council's annual or other periodic review of the fee schedule as mandated by MVMC 3.36.120.

K. District No. 320 or any fee payer aggrieved by any decision of the hearing examiner may submit an appeal of the decision in writing to the city council within 10 working days from the date the final decision of the hearing examiner is rendered, requesting a review of such decision. Such appeal shall be upon the record, established and made at the hearing held by the hearing examiner; provided, that new evidence which was not available at the time of the hearing held by the hearing exam-

### 3.36.090

iner may be included in such appeal. The term “new evidence” shall mean only evidence discovered after the hearing held by the hearing examiner and shall not include evidence which was available or which could reasonably have been available and was simply not presented at the hearing for whatever reason.

L. Upon such written appeal being filed within the time period allotted, a hearing shall be held by the city council. Such hearing shall be held in accordance with the following appeal procedures:

1. The director or other designee (the “respondent(s)”) shall present a summary of the findings, conclusions, and decision, as well as the alleged errors forming the basis of the appeal.

2. The appellant(s) and the respondent(s) to the appeal shall have the opportunity to present oral arguments before the council; provided, that the appellants may reserve a portion of their time for rebuttal. Such oral argument shall be confined to the record and to any alleged errors therein or to any allegation of irregularities in procedure before the planning commission. The council may request additional information from any staff member or party, or any factual information from members of the audience at its discretion. Such additional information shall be part of the record.

3. If the council finds that:

a. The hearing examiner’s findings or decision contains substantial error;

b. The hearing examiner’s proceedings were materially affected by irregularities in procedure;

c. The hearing examiner’s decision was unsupported by substantial evidence in view of the entire record as submitted; or

d. The hearing examiner’s decision is in conflict with the city’s adopted plans, policies, and ordinances;

it may remand for further hearing before the hearing examiner or may reverse the hearing examiner’s decision. In addition, the council may choose to modify the hearing examiner’s decision based on the above criteria. Furthermore, any matter may be continued to a time certain for additional city staff analysis desired by the council, before a final determination by the council.

4. If the council determines that there is no basis for the alleged errors set forth in the appeal, it may adopt the findings of the hearing examiner and accept the decision of the hearing examiner.

M. This procedure is the only method for appealing alleged errors or irregularities in procedure which may have occurred before the hearing examiner. All objections are deemed waived if no

appeal is taken from the action by the hearing examiner.

N. Any matter requiring action by the council shall be taken by the adoption of a motion by the council. When taking any such final action, the council shall make and enter findings of fact from the record and conclusions thereof which support its action. The council may adopt all or portions of the findings and conclusions.

O. The action of the council approving, modifying, or rejecting a decision of the hearing examiner shall be final and conclusive, unless within 20 calendar days from the date of the council action District No. 320 or any fee payer applies for a writ of certiorari to the superior court of Washington for Skagit County, for the purpose of review of the action taken. (Ord. 3318 § 4, 2006).

### **3.36.090 Authorization for the school interlocal agreement and the establishment of the schools impact account.**

A. The mayor is authorized to execute, on behalf of the city, an interlocal agreement for the collection, expenditure, and reporting of school impact fees; provided, that such interlocal agreement comply with the provisions of this section.

B. As a condition of the interlocal agreement, District No. 320 shall establish a schools impact account with the office of the Skagit County treasurer, who serves as the treasurer for District No. 320. The account shall be an interest-bearing account.

C. For administrative convenience while processing the fee payments, school impact fees may be temporarily deposited in a city account; provided, that the city shall transfer the school impact fees and the interest earned on the fees to the district or shall deposit the school impact fees and the interest earned on the fees in the schools impact account established by the district within 31 days of receiving the fees.

D. Funds withdrawn from the schools impact account for District No. 320 must be used in accordance with the provisions of MVMC 3.36.110. The interest earned shall be retained in this account and expended for the purposes for which the school impact fees were collected.

E. On an annual basis, pursuant to the interlocal agreement, District No. 320 shall provide a report to the council on the schools impact account, showing the source and amount of all moneys collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

F. School impact fees shall be expended or encumbered within six years of receipt, unless the city council identifies in written findings extraordinary and compelling reason or reasons for District No. 320 to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered, after consultation with District No. 320. (Ord. 2552 § 9, 1993).

### 3.36.100 Refunds.

A. If District No. 320 fails to expend or encumber the impact fees within six years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to MVMC 3.36.090, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

B. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimants must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by District No. 320 and expended on the appropriate school facilities.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by District No. 320.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by District No. 320, but must be expended for the appro-

priate school facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if District No. 320 has expended or encumbered the impact fees in good faith prior to the application for a refund, District No. 320 can decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can petition District No. 320 for an offset. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. District No. 320 shall determine whether to grant an offset. District No. 320 shall forward its determination to the director, and the director may adopt the determination of district No. 320 and may grant or decline to grant an offset, or the director may make an alternative determination and set forth the rationale for the alternative determination. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in MVMC 3.36.080. (Ord. 2552 § 10, 1993).

### 3.36.110 Use of funds.

A. Pursuant to this chapter, impact fees:

1. Shall be used for school improvements of District No. 320 that will reasonably benefit the new development; and

2. Shall not be imposed to make up for deficiencies in District No. 320 school facilities serving existing developments; and

3. Shall not be used for maintenance or operation.

B. Impact fees may be spent for District No. 320 improvements, including but not limited to school planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to educational facilities, and any other expenses which can be capitalized.

C. Impact fees may also be used to recoup District No. 320 school facilities improvement costs previously incurred by the district to the extent that new growth and development will be served by the

### 3.36.120

previously constructed improvements or incurred costs.

D. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of District No. 320 school improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. (Ord. 2552 § 11, 1993).

#### 3.36.120 Review.

The fee schedule set forth in Appendix A shall be reviewed by the council as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan. (Ord. 3391 § 3, 2008; Ord. 2552 § 12, 1993).

#### 3.36.130 School impact fees and administrative fees.

A. The school impact fees set forth in Appendix A, attached to the ordinance codified in this chapter, are generated from the formula for calculating impact fees set forth in District No. 320's capital facilities plan. Except as otherwise provided in MVMC 3.36.050, 3.36.060, or 3.36.150, all development activity in the city will be charged the school impact fee in Schedule A.

B. The city's cost of administering the impact fee program shall be \$35.00 per dwelling unit and shall be paid by the applicant to the city as part of the development application fee. (Ord. 3391 § 3, 2008; Ord. 3318 § 5, 2006).

#### 3.36.140 Fee adjustments.

The adjustments to the impact fees reflect the legislative determination that while the full impact fees per dwelling unit accurately characterize the cost of the school facilities required for each new development, as documented in District No. 320's capital facilities plan, the council has, as a matter of policy and at the request of District No. 320, decided to provide discretionary adjustments for local bond issues. The council is authorized to reduce or to increase the adjustments as part of its annual or periodic review of the fee schedule, or at any other time, by adopting an amendatory ordinance. No additional technical analysis is required for reductions to or increases in the amount of the adjustments. (Ord. 2552 § 14, 1993).

#### 3.36.150 Independent fee calculations.

A. If District No. 320 believes in good faith that none of the fee categories or fee amounts set forth in the schedule in Appendix A accurately describe or capture the impacts of a new development on schools, District No. 320 may conduct independent fee calculations and submit such calculations to the director. The director may impose alternative fees on a specific development based on the calculations of District No. 320, or may impose alternative fees based on the calculations of the department. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the fee payer.

B. If a fee payer opts not to have the impact fees determined according to the schedule set forth in Appendix A, then the fee payer shall prepare and submit to District No. 320 an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. District No. 320 shall review the independent fee calculation and provide an analysis to the director concerning whether the independent fee calculation should be accepted, rejected, or accepted in part. The director may adopt, reject, or adopt in part the independent fee calculation based on the analysis prepared by District No. 320, or may impose alternative fees based on the calculations of the department, the fee payer's independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the fee payer and to District No. 320.

C. Any fee payer submitting an independent fee calculation will be required to pay the city of Mount Vernon a fee to cover the cost of reviewing the independent fee calculation. The fee shall be \$500.00 plus any additional staff time spent in the review and the cost of consultant services if the city deems these services to be necessary. The city shall require the fee payer to post a cash deposit of \$500.00 prior to initiating the review.

D. While there is a presumption that the calculations set forth in District No. 320's capital facilities plan are valid, the director shall consider the documentation submitted by the fee payer and the analysis prepared by District No. 320, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the fee payer or District No. 320 to submit additional or different documentation for consideration. The director is authorized to adjust the

impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the fee payer and to District No. 320.

E. Determinations made by the director pursuant to this section may be appealed to the planning commission subject to the procedures set forth in MVMC 3.36.080. (Ord. 3391 § 3, 2008; Ord. 3318 § 6, 2006).

**3.36.160 Existing authority unimpaired.**

Nothing in this chapter shall preclude the city from requiring the fee payer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that, the exercise of this authority is consistent with MVMC 3.36.050 and with RCW 43.21C.065 and 82.02.100. (Ord. 2552 § 16, 1993).

**Chapter 3.40**

**IMPACT FEES FOR PUBLIC STREETS,  
ROADS, PARKS, OPEN SPACE AND  
RECREATION FACILITIES AND  
FIRE PROTECTION**

Sections:

- 3.40.010 Findings and authority.
- 3.40.020 Definitions.
- 3.40.030 Findings of adequacy.
- 3.40.040 Assessment of impact fees.
- 3.40.050 Exemptions.
- 3.40.060 Credits.
- 3.40.070 Tax adjustments.
- 3.40.080 Appeals.
- 3.40.090 Establishment of impact fee accounts.
- 3.40.100 Refunds.
- 3.40.110 Use of funds.
- 3.40.120 Review.
- 3.40.130 Impact fees and administrative fees.
- 3.40.140 Independent fee calculations.
- 3.40.150 Existing authority unimpaired.

**3.40.010 Findings and authority.**

The city council of the city of Mount Vernon (the “council”) finds and determines that growth and development activity in the city will create additional demand and need for public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities in the city, and the council finds that growth and development activity should pay a proportionate share of the cost of such planned facilities needed to serve the growth and development activity. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this chapter to assess impact fees for planned facilities. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. (Ord. 2596 § 1, 1994).

**3.40.020 Definitions.**

The following definitions shall apply for purposes of this chapter unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

“Act” means the Growth Management Act, Chapter 17, Laws of 1990, 1st Ex. Sess., Chapter 36.70A RCW et seq., and Chapter 32, Laws of 1991, 1st Sp. Sess., as now in existence or as hereafter amended.

### 3.40.020

“Affordable housing” means units to be sold or rented to families earning less than 80 percent of the Skagit County median income adjusted for family size, as determined by the U.S. Department of Housing and Urban Development.

“Boundary line adjustment” shall have the same meaning as set forth in Chapter 16.36 MVMC.

“Building permit” means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. For purposes of this chapter, “building permit” also includes a mobile home permit.

“Capital facilities” means the facilities or improvements included in a capital budget.

“Capital facilities plan” or the “plan” means the capital facilities plan adopted by the council as part of the capital facilities element of the comprehensive plan for Mount Vernon.

“City” means the city of Mount Vernon.

“City engineer” means the officially appointed and acting city engineer for the city, also referred to herein as a “department head.”

“Community and economic development director” or “director” means the director of the community and economic development department.

“Council” means the city council of the city.

“County” means Skagit County.

“Department” means the city planning department.

“Developer” means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development activity, and their successors and assigns.

“Development activity” means any construction or expansion of a building or structure; or the siting of a mobile home; or any change in use of a building or structure or mobile home; or the subdivision of land; or the seeking of plat approval, PUD approval, binding site plan approval, mobile home park district approval, boundary line adjustment, or conditional use permit approval; or any change in use of land that creates additional demand and need for public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities.

“Development approval” means any written authorization from the city, other than a building permit, which authorizes the commencement of a development activity, including, but not limited to, plat approval, PUD approval, binding site plan approval, mobile home park district approval,

boundary line adjustment, and a conditional use permit.

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for planned facilities.

“Fee payer” is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a development activity which creates the demand for planned facilities, and which requires development approval and/or the issuance of a building permit. “Fee payer” includes an applicant for an impact fee credit.

“Fire chief” means the officially appointed and acting chief of the fire department of the city, also referred to herein as a “department head.”

“Fire impact fee” means the impact fee designated to pay for fire protection facilities.

“Impact fee” means a payment of money imposed by the city on development activity pursuant to this chapter as a condition of granting development approval and/or a building permit in order to pay for the planned facilities needed to serve new growth and development activity. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent fee calculations, or the administrative fee required for an appeal pursuant to MVMC 3.40.080.

“Impact fee account” or “account” means the account or accounts established for the planned facilities for which impact fees are collected. The accounts shall be established pursuant to MVMC 3.40.090, and comply with the requirements of RCW 82.02.070.

“Independent fee calculation” means the impact calculation, and/or economic documentation prepared by a fee payer, to support the assessment of an impact fee other than by the use of the schedules attached as Appendix A to the ordinance codified in this chapter, or the calculations prepared by the community and economic development director or city engineer where none of the impact fee categories or impact fee amounts in Appendix A accurately describe or capture the impacts of the development activity on public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities.

“Mobile home park district” shall have the same meaning as set forth in Chapter 17.39 MVMC.

“Owner” means the owner of record of real property, or a person with an unrestricted written

option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

“Park impact fee” means the impact fee designated to pay for publicly owned parks, open space and recreational facilities.

“Parks director” means the director of the city parks and recreation department, also referred to herein as a “department head.”

“Planned facilities” shall mean public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities included in the capital facilities element of the comprehensive plan for Mount Vernon.

“Planned unit development” or “PUD” shall have the same meaning as set forth in Chapter 17.69 MVMC.

“Standard of service” means the quantity and quality of service which the city council has determined to be appropriate and desirable for the city. A measure of the standard of service may include, but is in no way limited to, maximum levels of congestion on city streets and roads, maximum commute times, maximum wait at stops, maximum fire department response times, minimum fire suppression capabilities, minimum park space of per capita for a variety of types of parks, minimum distance from residences to parks, and any other factors the city council may deem appropriate.

“State” means the state of Washington.

“Transportation impact fee” means the impact fee designated to pay for public streets and roads.

“Unit” means any building or portion thereof which contains living facilities including provisions for sleeping, cooking, eating, and sanitation, as required by city, for not more than one family and including site-built buildings, mobile/manufactured homes and modular homes.

“Voluntary agreement” means an agreement between a developer and the city as authorized by RCW 82.02.020. (Ord. 3388 § 4, 2008)

#### **3.40.030 Findings of adequacy.**

A. Prior to approving proposed plats, planned unit developments or binding site plans, or granting other development approvals, the council or administrative personnel, as appropriate, shall make written findings that appropriate provisions are made for planned facilities. Findings of adequacy shall be based on the city’s standard of service.

B. Compliance with this requirement shall be sufficient to satisfy the requirements of RCW 58.17.110, 58.17.060, and the Act. The findings

shall be made at the time of preliminary plat, PUD, binding site plan or other development approval.

C. The city shall not approve applications for preliminary plats, PUDs or binding site plans, or grant other development approvals, unless the city is able to make the findings of adequacy; provided, that if the fee payer opts to dedicate land, to provide improvements, and/or construction consistent with the requirements of MVMC 3.40.060 governing credits, where appropriate, the city may make such findings.

D. If any party for any reason is able to exempt itself from the operation of this chapter, the city reserves the right to review its land use plan in conjunction with its capital facilities plan in order to ensure adequacy. In the event that the impact fees that might have been paid would have been an integral part of the financing to ensure adequacy, the city reserves the right to deny approval for the development on these grounds. (Ord. 2596 § 3, 1994).

#### **3.40.040 Assessment of impact fees.**

A. The city shall collect impact fees, based on the schedules in Appendix A, from any applicant seeking a building permit from the city.

B. Except as may be due to exemptions or credits provided pursuant to MVMC 3.40.050 or 3.40.060, or pursuant to an independent fee calculation accepted by the community and economic development director pursuant to MVMC 3.40.140, or impact fees imposed by the community and economic development director pursuant to MVMC 3.40.140, the city shall not issue a building permit(s) unless and until the impact fees set forth in the schedules in Appendix A to this chapter have been paid. (Ord. 3388 § 3, 2008; Ord. 3092 § 7, 2002; Ord. 2967 § 1, 1999; Ord. 2596 § 4, 1994).

#### **3.40.050 Exemptions.**

A. The following shall be exempted from the payment of all impact fees:

1. Replacement of a residential structure or mobile home with a new structure or mobile home of the same size and use at the same site or lot.
2. Alterations or expansion or enlargement or remodeling or rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.
3. The construction of accessory structures that will not create significant impacts on planned facilities.

### 3.40.050

4. Miscellaneous improvements, including but not limited to fences, walls, swimming pools, and signs.

5. Demolition or moving of a structure.

6. Construction of affordable housing where the affordable housing unit is a one-to-one replacement for a demolished dwelling unit previously sited at another location within the city and where no new housing can be built on the same lot as the demolished dwelling unit, so long as these uses are maintained and the necessary covenants or declarations of restrictions, approved by the city, are recorded on the property. The request for the exemption shall be filed with the city within 24 months of the demolition or destruction of the prior structure or removal of the mobile home. The director shall place a notation on the property of the demolished dwelling unit or mobile home lot to indicate that a new dwelling unit or mobile home cannot be built or sited on the same lot unless an impact fee is paid at the time of building permit issuance.

B. The following shall be exempted from the payment of the park impact fees:

1. The construction of public school facilities.

2. The construction of private school facilities; provided, that open space or recreational facilities are made available to the public at such facility.

3. Nonresidential construction.

C. The following shall be exempted from the payment of the transportation impact fee:

1. The construction of private or public schools; provided, that public streets and roads required by the city to address the impacts of the construction are completed or will be completed as a part of the development. This exemption does not include facilities constructed on a public or private school campus for primarily nonschool related functions, such as recreation centers, playfields, and/or entertainment/conference auditoriums. It is recognized in this code that school facilities are often used by the public for nonschool related activities (e.g., renting playfields and school auditoriums). This section does not refer to those types of facilities that are primarily constructed for school activities.

2. Converting a commercial or industrial use to a similar use which has the same traffic generation that the original use did. If the new commercial or industrial use has a greater traffic generation than the original use did, the applicant for the new use shall pay for the net new trips generated. If the city does not have the original traffic

studies for the use that has ceased, the applicant will be responsible for paying the city's traffic consultant to estimate these trips.

D. Except as otherwise provided pursuant to the terms of a voluntary agreement entered into between the city and a developer, the payment of fees, the dedication of land, or the construction of planned facilities by the developer pursuant to the terms of a voluntary agreement negotiated with the city with specific reference to the improvements identified in the capital facilities plan and in anticipation of the imposition of impact fees, and entered into between the city and a developer prior to the effective date of the ordinance codified in this chapter shall be deemed to be complete mitigation for the impacts of the specific development on the planned facilities. The units in such development may be charged a reduced fee pursuant to an independent fee calculation under MVMC 3.40.140. The developer shall provide to the community and economic development director documentation demonstrating compliance with the terms of the voluntary agreement.

E. Except as otherwise provided pursuant to the terms of a plat condition or a SEPA mitigation condition, the payment of fees, the dedication of land, or the construction of planned facilities by the developer pursuant to the terms of a plat condition or a SEPA mitigation condition negotiated with the city with specific reference to the improvements identified in the capital facilities plan and in anticipation of the imposition of impact fees, and imposed prior to the effective date of the ordinance codified in this chapter, shall be deemed to be complete mitigation for the impacts of the specific development on the planned facilities. The units in such development may be charged a reduced fee pursuant to an independent fee calculation under MVMC 3.40.140. The developer shall provide to the community and economic development director documentation demonstrating compliance with the terms of the plat condition or SEPA mitigation condition.

F. The community and economic development director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the community and economic development director shall be in writing and shall be subject to the appeals procedures set forth in MVMC 3.40.080. (Ord. 3411 § 2, 2008).

**3.40.060 Credits.**

A. Credit Available. After the effective date of the ordinance codified in this chapter, credit against the amount of the impact fees for developer dedications of land for planned facilities or construction of planned facilities, or improvements to planned facilities shall be governed by this section. This section allows for the provision of reasonable credit to a fee payer for the value of any dedication of land for, improvements to or new construction of planned facilities by a fee payer, pursuant to RCW 82.02.060(3), as further provided herein. The amount of the credit for a particular improvement or facility shall be limited to the cost of that improvement or facility as set forth within Chapter 14.10 MVMC and the transportation element of the comprehensive plan. Credits shall be specific to the type of improvements or dedication made, such that dedications of land for, construction of or improvements to publicly owned parks, open space or recreational facilities shall be applicable only to the park impact fee; dedications of land for, construction of, or improvements to public streets and roads shall be applicable only to the transportation impact fee; and dedications of land for, construction of or improvements to fire protection facilities shall be applicable only to the fire impact fee.

B. Application for Credit/Determination of Suitability of Land, Improvements, Construction. The fee payer applying for credit (hereinafter, "the applicant") shall direct the request for a credit or credits to the community and economic development director, who shall refer the request to the city engineer, the fire chief and/or the parks director as appropriate. The appropriate department head shall first determine the general suitability of the land, improvements, and/or construction for city purposes. The community and economic development director shall then determine whether the land, improvements, and/or the facilities constructed are included within the city's adopted capital facilities plan or the community and economic development director may make the finding that such land, improvements, and/or facilities would serve the goals and objectives of the city's capital facilities plan. The community and economic development director shall adopt the determination of the appropriate department head as to the general suitability of the land improvements, and/or construction for city purposes. In all cases the community and economic development director shall inform the applicant, in writing, of the adoption of the determination.

**C. Determination of Credit Amount.**

1. The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

2. The value of a credit for land, including right-of-way and easements, shall be established on a case-by-case basis by an appraiser selected by or acceptable to the director. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the director.

3. The fee payer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the city may be providing to the fee payer, in the event that a credit is awarded.

D. Use of Credits. The applicant, upon receipt of a credit certificate, shall have the right to use the certificate to offset any future impact fee assessed for any development activity that will be required to pay impact fees. The administration and application of the credit certificates will be as described in subsection E of this section. The application of any credit certificate will be specific to either the transportation impact fee, the park impact fee or the fire impact fee.

E. Credit Certificates/Administration. After determining the amount of the credit, the community and economic development director shall issue and provide the applicant with a document hereinafter known as a credit certificate, setting forth the dollar amount of the credit, the date of issuance of the credit certificate, the date of expiration of the credit and the credit certificate, the reason for the credit, the legal description of the property donated, and/or the improvement or construction which was the basis for the credit, and the name of the applicant to which the credit certificate is registered (the "credit holder"). The applicant must sign and date the credit certificate, and return such signed credit certificate to the community and economic development director for filing in the city's credit certificate registry before the credit will be

### 3.40.070

awarded. The failure of the applicant to sign, date, and return the credit certificate within 60 calendar days shall nullify the credit. The original credit certificate shall be kept and registered in the city's records, and the credit holder shall be provided a duplicate copy. The community and economic development director shall develop reasonable rules and regulations for the administration of the credit certificate program, including the calculation of credits, and including procedures for use of credits and application of credits to particular parcels of land which may be by recorded document, and including the ability to levy an administrative fee in an amount sufficient to cover actual costs to the city.

F. Transfer of Credit/Partial Use of Credit. Credit certificates may be transferred or sold to third parties by the credit holder; provided, that in order to transfer credits to another party, the current credit holder shall register the transfer with the city in accordance with the procedures for registration of credit transfers developed by the community and economic development director. Only the credit holder who is reflected on the city's registration system may utilize the credit. Registration with the city of credit certificates shall be conclusive evidence of credit ownership. To the extent that a credit holder wishes to utilize only a portion of the credit reflected on the credit certificate against impact fees due on a particular project, the community and economic development director shall develop procedures for reducing the amount of credit reflected on the credit certificate accordingly or issuing a new credit certificate with the remaining credit amount.

G. Limitations on Utilization of Credits. Utilization of credit against payment of impact fees must in all cases be made prior to payment of the impact fee. No reimbursement of impact fees will be made for credit not utilized at the time the impact fee was due. In no event shall the city be under any obligation to advise any applicant for a building permit or other development approval of the existence or possible existence of the availability of credits. The burden of investigating and determining if credits may be available shall rest solely with such applicant. Credit utilized shall never exceed the amount of the impact fee due.

H. Credit for Significant Past Tax Payments. For each request for a credit for significant past tax payments made for particular improvements or land acquisitions, the fee payer shall submit proof of payments and a calculation of past tax payments earmarked for or proratable to the particular improvements or land acquisitions. The commu-

nity and economic development director shall establish procedures for determining the amount of credit for significant past tax payment made for particular improvements or land acquisitions.

I. Appeals. Determinations made by the community and economic development director pursuant to this section shall be subject to the appeals procedures set forth in MVMC 3.40.080.

J. Expiration of Credits. Credits shall expire, and credit certificates shall become null and void, on a date six years from the date of issuance of the original credit certificate by the community and economic development director. Transfer of credits or partial use of credits which may involve reissuance of credit certificates shall in no event extend the expiration date of those credits. (Ord. 3388 §§ 3, 6, 2008).

### 3.40.070 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the capital facilities plan has provided adjustments for future taxes to be paid by the developer which are earmarked or proratable to the planned facilities which will serve the development activity. The impact fee schedules in Appendix A have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund particular planned facilities. (Ord. 2596 § 7, 1994).

### 3.40.080 Appeals.

A. Any fee payer may pay the impact fees imposed by this chapter under protest in order to obtain the development approval and/or a building permit. Appeals regarding the impact fees imposed on any development activity may only be taken by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fees at issue have been paid.

B. The community and economic development director's determinations with respect to the applicability of the impact fees to a given development approval and/or building permit, the availability of an exemption, the availability or value of a credit, or the community and economic development director's decision concerning the independent fee calculation which is authorized in MVMC 3.40.140, or the impact fees imposed by the community and economic development director pursuant to MVMC 3.40.140, or any other determination which the community and economic development director is authorized to make pursuant to this chapter, can be appealed to the planning commission.

C. Appeals shall be taken within 10 working days of the community and economic development director's issuance of a written determination by filing with the planning commission a notice of appeal specifying the grounds thereof, and depositing an administrative fee in the amount of \$300.00. The community and economic development director shall transmit to the planning commission all papers constituting the record for the determination, including where appropriate, the independent fee calculation.

D. The planning commission shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same. At the hearing, any party may appear in person or by agent or attorney. If the matter which is the subject of the appeal requires development approval which also requires a hearing before the planning commission, both the appeal and the development approval hearing may be combined in a single hearing.

E. The planning commission is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the planning commission shall be final, except as provided in this section.

F. The planning commission may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the community and economic development director with respect to the amount of the impact fees imposed or the credit awarded upon a determination that it is proper to do so based on principles of fairness, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers which have been granted to the community and economic development director by this chapter.

G. Any fee payer who believes that the decision of the planning commission is based on erroneous procedures, errors of law or fact, error in judgment, or has discovered new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the planning commission within 10 working days of the date the decision is rendered. Such fee payer is the "appellant" for the purposes of this section. This request shall set forth the specific errors or new information relied upon by such appellant, and the planning commission may, after review of the record, take further action as it deems proper.

H. The filing of a request for reconsideration shall effectively stay the appeal period until the planning commission takes further action.

I. Where the planning commission determines that there is a flaw in the impact fee program or that a specific exemption or credit should be awarded on a consistent basis or that the principles of fairness require amendments to this chapter, the commission may advise the city council as to any question or questions that the commission believes should be reviewed as part of the council's annual or other periodic review of the impact fee schedules as mandated by MVMC 3.40.120.

J. Any fee payer aggrieved by any decision of the planning commission may submit an appeal of the decision in writing to the city council within 10 working days from the date the final decision of the planning commission is rendered, requesting a review of such decision. Such appeal shall be upon the record, established and made at the hearing held by the planning commission; provided, that new evidence which was not available at the time of the hearing held by the planning commission may be included in such appeal. The term "new evidence" shall mean only evidence discovered after the hearing held by the planning commission and shall not include evidence which was available or which could reasonably have been available and was simply not presented at the hearing for whatever reason.

K. Upon such written notice of appeal being filed within the time period allotted, a hearing shall be held by the city council. Such hearing shall be held in accordance with the following appeal procedures:

1. The community and economic development director or other designee (the "respondent(s)") shall present a summary of the findings, conclusions, and decision, as well as the alleged errors forming the basis of the appeal.

2. The appellant(s) and the respondent(s) to the appeal shall have the opportunity to present oral arguments before the council, provided, that the appellants may reserve a portion of their time for rebuttal. Such oral argument shall be confined to the record and to any alleged errors therein or to any allegation of irregularities in procedure before the planning commission. The council may request additional information from any staff member or party, or any factual information from members of the audience at its discretion. Such additional information shall be part of the record.

3. If the council finds that:

- a. The planning commission's findings or decision contains substantial error;

### 3.40.090

b. The planning commission's proceedings were materially affected by irregularities in procedure;

c. The planning commission's decision was unsupported by substantial evidence in view of the entire record as submitted; or

d. The planning commission's decision is in conflict with the city's adopted plans, policies, and ordinances, it may remand for further hearing before the planning commission or may reverse the planning commission's decision. In addition, the council may choose to modify the planning commission's decision based on the above criteria. Furthermore, any matter may be continued to a time certain for additional city staff analysis desired by the council, before a final determination by the council. If the council requests additional staff analysis the appellant shall be provided a copy and afforded reasonable time to review the analysis and respond to the council before final determination by the council.

4. If the council determines that there is no basis for the alleged errors set forth in the appeal, it may adopt the findings of the planning commission and accept the decision of the planning commission.

L. This procedure is the only method for appealing alleged errors or irregularities in procedure which may have occurred before the planning commission. All objections are deemed waived if no appeal is taken from the action by the planning commission.

M. Any matter requiring action by the council shall be taken by the adoption of a motion by the council. When taking any such final action, the council shall make and enter findings of fact from the record and conclusions thereof which support its action. The council may adopt all or portions of the planning commission's findings and conclusions.

N. The action of the council approving, modifying, or rejecting a decision of the planning commission shall be final and conclusive, unless within 20 calendar days from the date of the council action any fee payer applies for a writ of certiorari or writ of review to the Superior Court of Washington for Skagit County, for the purpose of review of the action taken. (Ord. 3388 § 3, 2008; Ord. 3092 § 10, 2002; Ord. 2967 § 1, 1999; Ord. 2596 § 8, 1994).

### 3.40.090 Establishment of impact fee accounts.

A. The city shall establish separate impact fee accounts for the following: (1) transportation impact fees; (2) park impact fees; and (3) fire

impact fees. The accounts shall be interest bearing accounts.

B. Funds withdrawn from the impact fee accounts must be used in accordance with the provisions of MVMC 3.40.110. The interest earned shall be retained in each account and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the city finance director shall provide a report to the council on the impact fee accounts, showing the source and amount of all moneys collected, earned, or received, and the planned facilities that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within six years of receipt, unless the city council identifies in written findings extraordinary and compelling reason or reasons to hold the impact fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. 2596 § 9, 1994).

### 3.40.100 Refunds.

A. If the city fails to expend or encumber the impact fees within six years of when the impact fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to MVMC 3.40.090, the current owner of the property on which impact fees have been paid may receive a refund of such impact fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

B. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the impact fees to the community and economic development director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on the appropriate planned facilities.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city, calculated at the average interest rate

earned by the city on the impact fee account over the preceding fiscal year.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all impact fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the appropriate planned facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the impact fee account(s) being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the city can decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can petition the city for an offset. The petitioner must provide proof of payment of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. The community and economic development director shall determine whether to grant an offset. Determinations of the community and economic development director shall be in writing and shall be subject to the appeals procedures set forth in MVMC 3.40.080. (Ord. 3388 § 3, 2008; Ord. 3092 § 11, 2002; Ord. 2967 § 1, 1999; Ord. 2596 § 10, 1994).

#### **3.40.110 Use of funds.**

A. Pursuant to this chapter:

1. Impact fees collected for public streets and roads, impact fees for publicly owned parks, open space and recreational facilities, and impact fees for fire protection facilities shall be used solely for those respective purposes, and only those that will reasonably benefit the development activity.

2. Impact fees shall not be imposed to make up for deficiencies in existing facilities serving existing developments.

3. Impact fees shall not be used for maintenance or operation.

B. Impact fees may be spent for planned facilities, including but not limited to planning, land acquisition, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to planned facilities, and any other similar expenses which can be capitalized.

C. Impact fees may also be used to recoup city improvement costs previously incurred by the city to the extent that new growth and development activity will be served by the previously constructed improvements or incurred costs.

D. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of city improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the development activity. (Ord. 2596 § 11, 1994).

#### **3.40.120 Review.**

The impact fee schedules set forth in Appendix A shall be reviewed by the council as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan. (Ord. 2596 § 12, 1994).

#### **3.40.130 Impact fees and administrative fees.**

A. The impact fees set forth in Appendix A, attached to this chapter, are based upon the data and assumptions set forth therein, and the information and public input provided to the city council in considering adoption of this chapter. Except as otherwise provided in MVMC 3.40.050, 3.40.060 or 3.40.140, all development activity in the city will be charged the impact fees set forth in the schedules contained in Appendix A attached to the ordinance codified in this chapter.

B. The city's cost of administering the impact fee program shall be \$35.00 per unit for single family residential permits, or \$70.00 per multifamily residential permit, or one percent of the impact fees calculated to be due for nonresidential permits, per impact fee (e.g., \$35.00 or one percent for the fire impact fee, \$35.00 for the park impact fee and \$35.00 or one percent for the transportation impact

### 3.40.140

fee), and shall be paid by the applicant to the city as part of the permit application fee. (Ord. 2596 § 13, 1994).

#### **3.40.140 Independent fee calculations.**

A. If the community and economic development director believes in good faith that none of the impact fee categories or impact fee amounts set forth in the schedules in Appendix A attached to the ordinance codified in this chapter accurately describe or capture the impacts of a development activity on planned facilities, the community and economic development director may conduct independent fee calculations. The community and economic development director may impose alternative impact fees on a specific development activity based on these calculations. The alternative impact fees and the calculations shall be set forth in writing and shall be mailed to the fee payer.

B. If a fee payer opts not to have the impact fees determined according to the schedules set forth in Appendix A, then the fee payer shall prepare and submit to the community and economic development director an independent fee calculation for the development activity for which final plat, PUD, binding site plan, or other development approval, or a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The appropriate department heads and appropriate consultants that the city can hire at the applicant's expense, shall review the independent fee calculation and provide an analysis to the community and economic development director concerning whether the independent fee calculation should be accepted, rejected, or accepted in part. The community and economic development director may adopt, reject, or adopt in part the independent fee calculation based on the analysis prepared by appropriate department heads, and based on the specific characteristics of the development activity, and/or principles of fairness. The impact fees or alternative impact fees and the calculations shall be set forth in writing and shall be mailed to the fee payer.

C. Any fee payer submitting an independent fee calculation will be required to pay the city of Mount Vernon a fee to cover the cost of reviewing the independent fee calculation. The fee shall be \$500.00 plus the actual cost of any additional staff time in excess of \$500.00 spent in the review, and the cost of consultant services if the city deems these services to be necessary; provided, however, for independent fee calculations for single residential lots where, in the sole discretion of the commu-

nity and economic development director, the issues involved are easily handled and the fee is clearly excessive, the \$500.00 fee may be reduced. The city shall require the fee payer to post a cash deposit of \$500.00 prior to initiating the review.

D. While there is a presumption that the calculations set forth in the city's capital facilities plan are valid, the community and economic development director shall consider the documentation submitted by the fee payer and the analysis prepared by the appropriate department heads, but is not required to accept such documentation or analysis which the community and economic development director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. The community and economic development director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development activity, and/or principles of fairness. The impact fees or alternative impact fees and the calculations shall be set forth in writing and shall be mailed to the fee payer.

E. Determinations made by the community and economic development director pursuant to this section may be appealed to the planning commission subject to the procedures set forth in MVMC 3.40.080. (Ord. 3388 §§ 3, 7, 2008).

#### **3.40.150 Existing authority unimpaired.**

Nothing in this chapter shall preclude the city from requiring the fee payer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that, the exercise of this authority is consistent with MVMC 3.40.050 and with RCW 43.21C.065 and 82.02.100. (Ord. 2596 § 15, 1994).

**Chapter 3.44**

**Chapter 3.46**

**COLLECTION AGENCY USE**

**MISCELLANEOUS FEES**

Sections:

- 3.44.010 Authorized.
- 3.44.020 Evidence of billing.
- 3.44.030 Notice.
- 3.44.040 Amounts to be collected.

Sections:

- 3.46.010 Bad check fee.

**3.44.010 Authorized.**

In addition to all other remedies for collecting amounts owed to the city, the city may use the services of a collection agency to collect amounts owed to the city for services provided by the city pursuant to the procedures set forth in this chapter. If the city uses a collection agency to collect amounts owed to the city, in addition to the outstanding debt, the debtor shall pay a fee in an amount sufficient to cover in full all fees to be paid to the collection agency. (Ord. 3227 § 1, 2004; Ord. 2867 § 1(A), 1998).

**3.44.020 Evidence of billing.**

To use the services of a collection agency to collect amounts owed to the city, the city must have evidence that the city sent the debtor a written bill for the amount owed. (Ord. 2867 § 1(B), 1998).

**3.44.030 Notice.**

If an amount owed to the city is not paid within 60 days of the date on which the amount becomes due, the finance director may send written notice, by regular or certified mail, to the debtor at the debtor's last known address according to the city's records. The notice shall state the amount owed to the city, the amount of any applicable interest and penalties, that the city may use the services of a collection agency to collect amounts owed to the city if the amount owed to the city, together with any applicable interest and penalties, is not paid in full within 30 days of the date of the notice, and, if the city uses the services of a collection agency, the city shall charge the debtor a fee in the amount established in MVMC 3.44.010. (Ord. 2867 § 1(C), 1998).

**3.44.040 Amounts to be collected.**

If the amount owed to the city together with any applicable interest and penalties is not paid in full within 30 days of the notice, the city may use the services of a collection agency to collect the outstanding amount owed to the city, any applicable interest and penalties, and the collection agency services fee. (Ord. 2867 § 1(D), 1998).

**3.46.010 Bad check fee.**

Whenever a check or draft presented to the city is dishonored by nonacceptance or nonpayment by the drawee bank or institution, the drawer will be charged a check-handling fee in the amount of \$20.00. Any license or application paid for with such dishonored check or draft is invalid, any obligation paid with such check or draft is still outstanding, and any penalties, interest or fees specified in the Mount Vernon Municipal Code, ordinances or resolutions will continue to accrue until the city receives funds for the amount of the check or draft plus the check-handling fee. The finance director of the city of Mount Vernon, or his/her designee, is hereby authorized and directed to assess said check-handling charge in addition to, and as a part of, the payment or obligation due or made to the city of Mount Vernon for which the dishonored check or draft was issued. (Ord. 2982 § 1, 1999)

