

ORDINANCE No. 154

An Ordinance Amending Title XI (Public Utilities), Chapter 1 (Public Water System), Section 11.01.040 and Chapter 2 (Public Sewer System), Section 11.02.420 of the Mosier Municipal Code, Repealing Resolutions 2008-07 and 2008-08.

The Mosier City Council makes the following findings:

WHEREAS the City of Mosier owns, operates, and maintains municipal water and sewage systems providing water and sanitary sewer service to connected users of these utilities; and

WHEREAS the City adopted water and sewer rates for all users and adopted the policy in Resolution 2006-03 that all properties connected to the sewer and water system shall pay the monthly service charge regardless of whether services are actually used; and

WHEREAS, the City has adopted code chapters that provide comprehensive regulatory program for its water utility in MMC chapter 11.01 and its sewer utility in MCC chapter 11.02; and

WHEREAS, the City also adopted Resolution 2008-07, which interprets Section 4 (Billing) of Resolution 2006-03 to provide for continued imposition of monthly sewer and water charges, regardless of whether those services are actually used, until such time as the City affirmatively disconnects or otherwise shuts-off sewer or water service, thereby removing the property from the City's utility system; and

WHEREAS, Resolution 2008-07 provides that properties that are affirmatively disconnected from the system(s) shall not accrue monthly service charges, but only a monthly administrative fee, until such time as the City reconnects the property to the system(s); and

WHEREAS, the City adopted Resolution 2008-08 to establish a policy setting rates and collection policies for past-due utility accounts, including the SDC that the City will charge a property that was disconnected from a utility system and later seeks to reconnect; and

WHEREAS, the City Council desires to revise its sewer and water regulations to more clearly address how reconnections occur, what SDC will be assessed upon reconnection, and to adopt those policies by way of a single ordinance incorporating them into the Municipal Code Chapters 11.01 and 11.02; and

WHEREAS, the City Council considered this comprehensive approach in a duly noticed public hearing at the Council's regular meeting on May 4, 2011, where it accepted public testimony on the proposal.

NOW THEREFORE, based on the foregoing findings, the City Council for the City of Mosier ordains as follows:

Section 1: Repeal: Resolution No. 2008-07 is hereby repealed and rescinded in its entirety.

Section 2: Repeal: Resolution No. 2008-08 is hereby repealed and rescinded in its entirety.

Section 3: Amendment of MCC chapter 11.01 (water): Title XI (Public Utilities and Public Property), Chapter 1 (Public Water System), Section 11.01.040 of the Mosier Municipal Code is hereby amended to provide as follows:

11.01.040 Administration of Water Connections and Billing:

- A. Application for Service Connection
- B. Responsibility for Service Extensions and Connections
- C. Responsibility for Bills Associated with Water Service
- D. City's Remedies for Past-due Bills, Service Termination and Right to Lien
- E. Water Service Connection and Payment of System Development Charges
- F. City Access to Service Property

A. Application for Service Connection: Any property in the city's service area is eligible for a water service connection. To apply, the owner of the service property, or someone with written authorization from the property owner, shall complete an application and submit it to city hall. The application shall be on a form provided by the city and include the information and statements described in Section 11.01.060(A).

B. Responsibility for Service Extensions and Connections: The city engineer or water system operator shall review all applications for water service and determine if the proposed service property is within the city's service area, and if so what size of meter is needed to serve the property. The city engineer or water system operator shall coordinate with the property owner for the extension of the water system infrastructure to the service property. The following shall control the extension, connection and installation of water service:

1. If water mains of sufficient size or capacity are in the public right-of-way adjacent to the service property, the city shall allow the property owner to construct a service lateral and connection to the public water main according to the requirements, specifications and procedures set forth in the Water Plan or applicable city rule. The property owner shall provide engineered design drawings for all such connections to the city engineer, consistent with the city's design standards for water system improvements. Work in the public right-of-way requires a Right-of-Way Permit from the City and any other public agency with jurisdiction.
2. If water mains of sufficient size and capacity are not within the public right-of-way adjacent to the service property, the property owner shall be responsible for extending water mains to the service property through easements dedicated to the city or within the public right-of-way and across the service property.

C. Responsibility for Bills Associated with Water Service:

1. Responsibility for fees, charges, penalties, etc.: At all times and under all circumstances, the owner of the service property shall be responsible for all water service charges, fees, rates, penalties and related amounts charged by the city in connection with the provision of water to the service property owned by the property owner. When applying to connect, establish or reestablish service to the City's water system, all owners of real property shall provide written consent for the City to transfer all utility bills and claims for delinquent service charges from a tenant to the owner. A claim for delinquent service charges incurred by a tenant of the property other than the owner may be transferred to the owner of the property provided water or wastewater services, subject to ORS 91.255. The city will send bills, notices and other communication to other addresses upon the written request of the property owner and will seek payment of bills from those parties. However, the property owner shall remain jointly and severally responsible for all bills associated with the city's provision of water service to the owner's property. The city shall be entitled to seek payment for past-due bills from the property owner and pursue all available remedies against the property owner for nonpayment of those bills.
2. Responsibility to maintain current mailing address: The owner of the service property shall provide, and be responsible for maintaining at all times, a current mailing address to which the city will send all bills, notices and other communications related to water service. The property owner may request in writing that the city send bills to a different address or addressee, *e.g.*, a renter or tenant of the service property. Unless the property owner requests otherwise in writing, all bills, notices and other communications from the city related to the provision of water to the service property shall be sent to the property owner's most recent address. Regardless of where the property owner directs the city to send all bills, notices and other communications related to water service, the property owner shall remain ultimately responsible to the city for payment of all bills, fees, charges, penalties, etc. associated with the provision of water to the service property.
3. When payment on water bills is due: All water service charges, fees, penalties and other bills shall be due and payable in full within 30 days of when the city sends a written bill. All bills that remain unpaid after 30 days of being sent shall accrue a late fee penalty in an amount established by city council.
4. No temporary shut-off or vacation service: Once a service property is connected to the city's water system the city will bill, and the property owner is obligated to pay, the monthly service charge. The city will not disconnect or curtail service or billing for temporary periods, seasons or vacations. Service shall only be shut-off or terminated pursuant to Section D below, and then reinstated pursuant to Section D4.

D. City's Remedies for Past-due Bills, Service Termination and Right to Lien: The city shall send all bills, notices and other communications related to water service of the service property to the property owner's most recent address, plus any additional addresses specifically requested by the property owner.

1. Past-due and unpaid bills: All bills related to water service are due and payable in full 30 days after issuance of the bill by the city. The city shall be entitled to impose a late charge on all bills that remain unpaid 30 days after issuance in an amount established by the council until paid.
2. Right to lien: The city may record all unpaid bills that are 60 days or more past-due as a lien against title to the service property. Such liens for city water bills shall be senior to all other liens and encumbrances on the service property, unless otherwise provided by state law. The city shall provide written notice at least 14 days prior to recordation of such a lien to the current/most recent address and addressee provided by the property owner. The notice shall state the pay-off amount of the bill and a clear statement that if the past-due amount of the bill is not paid in full, the amount will be recorded as a lien against title to the service property.
3. Service termination: The city has the right to terminate or deny resumption of water service to a service property if there is a past-due bill that remains unpaid more than 60 days after the date the city issues the bill. After the city terminates water service to a property, the property shall not be assessed the normal monthly water service charge, but will be assessed a lower monthly administrative fee for maintaining the account. The City shall shut-off and lock the water meter as the means of terminating service. After water service has been terminated to a property for three consecutive years, the City may remove the water meter.
4. Resumption of water service after past-due amounts are paid: In accordance with ORS 91.255, the city may refuse water service or the resumption of water service to any service property for which there is a past-due or unpaid bill or a history of non-payment or late payment of water bills for the property, by the owner or by the tenant. The city may allow resumption of sewer or water service or a new connection for any property so long as provision is made for the payment of all past-due bills, late fees and penalties and the payment of the following applicable water system reconnection fee.
 - If property has been off the system less than 1 year - \$750.
 - If property has been off the system for 1 to 2 years - \$1,200.
 - If property has been off the system for 2 to 3 years - \$2,400.
 - If property has been off the system more than 3 years - full sewer and water SDC applicable at time of reconnection.

Additionally, the city may require the owner to deposit with the city a financial guarantee in a form and amount sufficient to cover the anticipated cost of six months of water bills. The city shall be entitled to draw upon the financial guarantee in the event of subsequent non-payment or late payment of water bills.

E. Water Service Connection and Payment of System Development Charges:

The City has adopted authority pursuant to ORS chapter 223 to impose system development charges (“SDCs”) related to the city’s water system as provided in MMC chapter 3.02 (System Development Charges). The City Council shall adopt and periodically revise the SDC rate schedule by resolution. Water SDCs are due and payable at the time a new connection to the city’s water system is permitted or actually made. No payment of water SDCs is allowed prior to actual connection or issuance of

building permits, after which the property owner shall be responsible for paying the monthly service charges associated with the service property. In the event that service to a property is subsequently terminated pursuant to Subsection D, water service may be resumed and the property reconnected to the water system in accordance with the requirements of Subsection D(4). Upon reconnection to the utility, the property owner shall begin incurring monthly service charges regardless of whether sewer or water services are actually used.

F. City Access to Service Property: Authorized employees of the City of Mosier, with proper identification, shall have access during reasonable hours to all parts of a service property and within any building to which water is supplied. However, if any property owner refuses access to a service property or to the interior of a structure at reasonable times and on reasonable notice for inspection, the city may install a reduced pressure principle assembly at that service property.

Section 4: Amendment of MCC chapter 11.02 (sewer): Title XI (Public Utilities and Public Property), Chapter 2 (Public Sewer System), Section 11.02.420 of the Mosier Municipal Code is hereby amended to provide as follows:

11.02.420 Administration of Sewer Service and Billing:

- A. Application for Service Connection
- B. Responsibility for Service Extensions and Connections
- C. Responsibility for Bills Associated with Sewer Service
- D. City's Remedies for Past-due Bills, Service Termination and Right to Lien
- E. Sewer Service Connection and Payment of System Development Charges
- F. City Access to Service Property

A. Application for Service Connection: Any property in the city's service area is eligible for a sewer service connection. To apply, the owner of the service property, or someone with written authorization from the property owner, shall complete an application and submit it to city hall. The application shall be on a form provided by the city and include the information and statements described in this section. All applications for sewer service shall be made at city hall by the owner or an authorized agent of the owner of the service property. All representations of the applicant shall be binding upon the property owner. To apply, the owner of the service property, or someone with written authorization from the property owner, shall complete an application on forms provided by the city and submit at least the following information:

1. Mailing address and other contact information for the owner of the service property.
2. A street address for the service property to be connected to the city's sewer system and provided with sewer services,
3. A description of the use of the service property, *e.g.*, single-family residential, commercial, industrial, etc. The description should be specific enough to allow the city engineer to determine the nature and volume of sewerage waste that will be discharged from the service property.

4. A statement of whether or not the service property will be occupied by the property owner.
5. If the applicant is someone other than the record owner of the property, a written statement from the record owner of the service property authorizing the applicant or agent to apply for sewer service, that the property owner shall comply with all requirements imposed by the city related to sewer service, and that the owner shall be responsible for all bills, fees, charges and penalties charged by the city in connection with the provision of sewer service.
6. A statement that the owner and agent shall comply with all of the city's rules, regulations and other requirements for sewer service, including prompt payment of all bills and acknowledgement that the city has the right to terminate service for nonpayment of bills in accordance with this chapter, and that the city shall not be responsible for any direct or indirect damage that may result from shutting off sewer service.
7. A signed consent allowing the transfer of any claim for past due bills incurred by a tenant or renter of the property to the property owner.

B. Responsibility for Service Extensions and Connections: The city engineer shall review all applications for sewer service and determine if the proposed service property is within the city's service area, and any special design or construction requirements before the property can be connected to the city's sewer system. The city engineer shall coordinate with the property owner for the extension of the sewer system infrastructure to the service property, and connection of sewer service.

1. If sewer mains of sufficient size or capacity are in the public right-of-way adjacent to the service property, the city shall allow the property owner to construct a service lateral and connection to the public sewer main according to the requirements, specifications and procedures set forth in the Sewer Plan or applicable city regulations. The property owner shall provide engineered design drawings for all such connections to the city engineer, consistent with the city's design standards for sewer system improvements. Work in the public right-of-way requires a Right-of-Way Permit from the City and any other public agency with jurisdiction.
2. If sewer mains of sufficient size and capacity are not within the public right-of-way adjacent to the service property, the property owner shall be responsible for extending sewer mains to the service property through easements dedicated to the city or within the public right-of-way and across the service property.

C. Responsibility for Bills Associated with Sewer Service:

1. Responsibility for fees, charges, penalties, etc.: At all times and under all circumstances, the owner of the service property shall be responsible for all sewer service charges, fees, rates, penalties and related amounts charged by the city in connection with the provision of sewer to the service property owned by the property owner. When applying to connect, establish or reestablish service to the City's water system, all owners of real property shall provide written consent for the City to transfer all utility bills and claims for delinquent service charges from a tenant to the owner. A claim for delinquent service charges incurred by a tenant of the property other than the owner may be transferred to the owner of the property that is served by the city's sewer system. The city will send bills, notices and other communication to other addresses and addressees upon the written request of the property owner; however, the owner

shall remain liable for all sewer service charges. The city reserves the right to charge the property owner an administrative fee for the city's costs associated with setting up the renter's account and duplicate billing each month. The city shall be entitled to seek payment for past-due bills from the property owner and pursue all available remedies against the property owner for nonpayment of those bills.

2. Responsibility to maintain current mailing address: The owner of the service property shall provide, and be responsible for maintaining at all times, a current mailing address to which the city will send all bills, notices and other communications related to sewer service. All bills, notices and other communications from the city related to the provision of sewer to the service property shall be sent to the property owner's most recent address. Regardless of where the property owner directs the city to send all bills, notices and other communications related to sewer service, the property owner shall remain ultimately responsible to the city for payment of all bills, fees, charges, penalties, etc. associated with the provision of sewer services to the service property.
3. When payment on sewer bills is due: All sewer service charges, fees, penalties and other bills shall be due and payable in full within 30 days of when the city sends a written bill. All bills that remain unpaid after 30 days of being sent shall accrue a late fee penalty in an amount established by city council.
4. No temporary shut-off or vacation service: Once a service property is connected to the city's sewer system the city will bill, and the property owner is obligated to pay, the monthly service charge. The city will not disconnect or curtail service or billing for temporary periods, seasons or vacations. Service shall only be shut-off or terminated pursuant to Section D below, and then reinstated pursuant to Section D6.
5. Monthly sewer rates for Accessory Dwelling Units and Apartments: Accessory dwelling units ("ADUs") and apartments are secondary dwellings on a property with a primary single-family dwelling, and they impose additional service demands on the sewer system beyond the demand of the primary dwelling. Therefore, the city shall charge all properties an additional 75% of the monthly base sewer charge applicable to a single-family dwelling for each occupied ADU or apartment. This additional monthly sewer service charge shall apply only where the ADU or apartment is a stand-alone dwelling, separated physically or functionally from the primary dwelling or other ADUs or apartments on the property. It is the property owner's responsibility to notify the city when an ADU or apartment exists, when it is occupied and when it is not.

D. City's Remedies for Past-due Bills, Service Termination and Right to Lien: The city shall send all bills, notices and other communications related to sewer service of the service property to the property owner's most recent address plus any additional addresses specifically requested by the property owner.

1. Past-due and unpaid bills: All bills related to sewer service are due and payable in full 30 days after issuance of the bill by the city. The city shall be entitled to impose a late charge on all bills that remain unpaid 30 days after issuance in an amount established by the council until paid.

2. Sewer bill added to property taxes: Past-due sewer charges may be certified and presented to the Wasco County tax assessor and be assessed against the service property on the next assessment and tax roll. Once a past-due service charge is certified and presented to the assessor, payment for the service charges must be made to the tax collector pursuant to ORS 311.370. The County tax collector shall collect the charges and pay them over to the City in the same manner as other taxes are certified, assessed, collected and paid over.
3. Right to lien: The city may record all bills that remain unpaid 60 days after issuance as a lien against title to the service property. Such liens for city sewer bills shall be senior to all other liens and encumbrances on the service property, unless otherwise provided by state law. The city shall provide written notice at least 14 days prior to recordation of such a lien to the current/most recent address and addressee provided by the property owner. The notice shall state the pay-off amount of the bill and a clear statement that if the past-due amount of the bill is not paid in full, the amount will be recorded as a lien against title to the service property.
4. Service termination: If at any time a property with a sewer bill that is more than 60 days past-due becomes uninhabited, the city may terminate sewer service to the property upon 14 days written notice to the owner. After the city terminates sewer service to a property, the property shall not be assessed the normal monthly sewer service charge, but will be assessed a lower monthly administrative fee for maintaining the account.
5. Emergency interruption of sewer service: In case of an emergency, the need to make repairs on the sewer system, or whenever the public health, safety so demands, the city engineer may temporarily suspend sewer service. Before suspending or limiting sewer system use, the city engineer shall notify, insofar as practicable, all affected sewer consumers. The city shall not be responsible for any damage resulting from any such interruption, change, or failure of the sewer system or service.
6. Resumption of sewer service following termination: Subject to applicable state laws, the city may refuse sewer or water service or the resumption of sewer or water service to any service property for which there is a past-due or unpaid sewer bill or a history of non-payment or late payment of sewer bills for the property. The city may allow resumption of sewer service or a new connection for any property so long as provision is made for the payment of all past-due bills, late fees and penalties. Additionally, the city may require the owner to deposit with the city a financial guarantee in a form and amount sufficient to cover the anticipated cost of six months of sewer bills. The city shall be entitled to draw upon the financial guarantee in the event of subsequent non-payment or late payment of sewer bills.

E. Sewer Service Connection and Payment of System Development Charges:
The City exercises authority under ORS chapter 223 to impose system development charges (“SDCs”) related to the city’s sanitary sewer system as provided in MMC chapter 3.02 (System Development Charges). Sewer SDCs are due and payable at the time a new connection to the city’s sewer system is permitted or actually made. No payment of sewer SDCs is allowed prior to actual connection or issuance of a building permit. Once the SDC is paid, the property becomes a service property and from that point forward the property owner shall be responsible for paying the monthly service charges associated with the service property regardless of whether sewer or water services are actually used.

In the event that service to a property is subsequently terminated pursuant to Subsection D, sewer service may be reconnected and resumed in accordance with the requirements of Subsection D(6) upon full payment of any past-due sewer charges associated with the property and payment of the reconnection fee and SDC associated with resumption of water service and set forth in MMC 11.01.040(D)(4) and (E). Upon reconnection of the service property to the city's sanitary sewer system, the property owner shall begin incurring monthly service charges regardless of whether sewer or water services are actually used.

F. City Access to Service Property: Authorized employees of the City of Mosier, with proper identification, shall have access during reasonable hours to all parts of a service property and within any building connected to the city's sewer system.

Read for the First Time this 4th day of May 2011.

Read for the Second Time and approved this 4th day of May 2011. This Ordinance shall take effect on the 31st day following the second reading.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Signed May 4th, 2011 becomes law on June 4, 2011
Andrea Rogers, Mayor

Attest:

Approved as to form:

Jean Hadley, City Recorder

Daniel Kearns, City Attorney