

CHAPTER 5.64

LATECOMERS REIMBURSEMENT AGREEMENT FOR LOTS DEVELOPED PRIOR TO 1995

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5.64.010: Applicability: The latecomers reimbursement agreement covered by this Chapter shall only be applicable for use by property owners of existing single-family residential lots established or developed prior to 1995, where a sanitary sewer system improvement will serve existing single-family residential dwelling units or lots. For lots developed after 1995, property owners may use the latecomers reimbursement agreement process outlined in Chapter 5.60. (Ord. 5209 Sec. 2, 2007)

5.64.020: Definitions:

- (1) AUtility System Improvements@ shall include the design and installation of the system to City design standards including:
 - (a) ASewer@ includes such things as mains and related appurtenances including side sewers, lift stations, telemetering facilities, testing, permits and similar improvement and construction support costs.
- (2) ADirector@ means the Public Works Director for the City of Kennewick or his/her designee. (Ord. 5209 Sec. 2, 2007)

5.64.030: Application Authorized B Purpose B Term:

- (1) Any property owner utilizing private funds to install sewer improvements and appurtenances serving existing pre-1995 single-family residential dwelling units or single-family residential lots located along a public right-of-way may apply to the City to establish a latecomers agreement for recovery of a pro rata share of the cost of constructing said public improvements from other parties that will later derive a benefit from said improvements.
- (2) No latecomers reimbursement agreement shall extend for a period longer than ten (10) years from the date of final acceptance by the City. (Ord. 5209 Sec. 2, 2007)

5.64.040: Eligibility of Applicants: Applicants for a latecomers reimbursement agreement shall be in compliance with all City ordinances, rules, and regulations to be eligible for processing of a latecomers reimbursement agreement. (Ord. 5209 Sec. 2, 2007)

5.64.050: Guidelines Establishment Authority: The Director shall establish guidelines and rules, regulations, policies and procedures for all applications for a latecomers reimbursement agreement. (Ord. 5209 Sec. 2007)

5.64.060: Application Requirements B Fee: All applications for a latecomers reimbursement agreement shall be on forms approved and established by the Director and shall be accompanied by a nonrefundable processing fee. (Ord. 5209 Sec. 2, 2007)

5.64.070: Sewer Area Charge:

(1) City standard sewer area charges (buy into the city sewer treatment facility) at the time of the connection to the sewer, will be paid to the City by each property owner and will be in addition to and not be part of, or included in, the latecomers reimbursement agreement.

(2) Property owners requesting a latecomers reimbursement agreement shall submit, along with the application, a nonrefundable payment processing fee in the amount of one hundred dollars (\$100.00) for the first five lots in the reimbursement area, plus fifty dollars (\$50.00) for each additional participating lot in the service area. The fee is to be applied to the City=s legal, engineering, and administrative costs associated with preparing the latecomers reimbursement agreement.

(3) The latecomer processing fee shall be paid to the City upon application for a latecomers reimbursement agreement.

(4) The base processing fee for each additional participating lot shall be adjusted annually to reflect inflationary and other related costs on January one of each new year to the nearest half dollar. The inflationary costs shall be calculated by adjusting the fee in accordance with the change in the ENR Construction Cost Index for Seattle, Washington. The nonrefundable one hundred dollar (\$100.00) base processing fee shall be increased by ten dollars (\$10.00), for each new year after the council approval of this Chapter 5.64. (Ord. 5209 Sec. 2, 2007)

5.64.080: Latecomers Agreement B General Improvement Procedures:

(1) If a latecomers reimbursement agreement is requested, the property owner(s) shall submit a map or diagram of the proposed assessment reimbursement area, which shall show the participating and future benefitting properties within the proposed project area, a cost estimate or contractor bid for the project based upon the plans prepared by a civil engineer or a City Engineer approved preliminary design for short extensions, from which reimbursable costs shall be estimated, and such other information as the City may require.

(2) The Director will formulate an assessment reimbursement area (benefit area) based upon a determination of which parcels did not contribute to the original cost of such utility system improvement and who may subsequently tap only, drain to, or use the same including users connected to laterals or branches connecting thereto.

(3) The Director, based on information submitted by the owner(s), will estimate pro rata share of costs. The Director may require engineering costs or construction bids to be provided. Note: if the estimated cost of the project to each participating property is less than the sum of the City sewer connect fee, wye tap fee, and stub fee in effect at the time of the

construction, a latecomers reimbursement agreement will not be approved. The proposed assessment will replace the city standard sewer connect fee. Non-participating properties will not be stubbed and a future wye tap fee will also be required.

(4) A minimum of twenty (20) days in advance of the Council meeting, the preliminary determination of area boundaries and assessments, along with a description of the property owner=s rights and options, shall be forwarded by certified mail to the property owners of record as shown on the records of the Benton County Assessor within the proposed assessment area. A hearing shall be held before the City Council, notice of which shall be given to all affected property owners at least ten (10) days in advance of the Council meeting. At the hearing, the City Council will determine whether to accept, reject, or modify the proposed latecomers agreement. If the City Council accepts, it shall establish the reimbursement area; provided, that the City Council may only modify the reimbursement area upon new notice to the owners of the affected property.

(5) Prior to commencing construction of the project, the owner(s) shall submit two or more competitive construction bids based, upon city-approved construction plans to the Director. Upon completion of the project, a reasonable pro rata share of project costs, including, but not necessarily limited to, design, permit and construction costs, including taxes, shall be established by the City, which shall then notify owners of the benefited properties of the amount of reimbursement connection charges against their property and the date that the latecomers reimbursement agreement will be presented to the City Council for public hearing. On the date scheduled, the City Council shall hear from affected parties and thereafter set the terms of the latecomers reimbursement agreement and maximum amount and terms of reimbursement from affected properties. The decision of the City Council shall be final and determinative.

(6) The City will record the latecomers reimbursement agreement in the Benton County Auditor=s Office, typically within thirty (30) days of the final execution of the agreement. The City will distribute a copy of the recorded document to each owner in the reimbursement area.

(7) Once recorded, the latecomer reimbursement agreement shall be binding on owners of record within the assessment area who are not party to the agreement. (Ord. 5209 Sec. 2, 2007)

5.64.090: Payment of Latecomers Assessment:

(1) Each latecomers assessment shall be due, in its entirety, upon connection to or use of the sewer system improvement by a property subject to an assessment, and shall be paid to the City in one lump sum prior to a connection permit being issued. Area charges, wye tap fee, and any additional fees, other than the city standard connect fee, will also be required to be paid in full. The City will pay and equitably distribute the collected reimbursement to the participating owners, less a ten percent (10%) handling, processing, and administration fee. Payment will be made to property owner(s) that participated in the original construction.

(2) When the latecomers assessment for any property has been paid in full or if the latecomers agreement has expired, the City shall record a certification of payment or agreement expiration that will release such property from the latecomers reimbursement agreement. (Ord. 5209 Sec. 2, 2007)

5.64.100: Removal of Unauthorized Connections or Taps: Whenever any tap or connection is made into any utility improvement without payment of the latecomers assessment being made as required by this Chapter, the Municipal Services Department is authorized to remove

and disconnect, or cause to be removed and disconnected, such unauthorized tap or connection including all connecting tile or pipe located in the right-of-way and to dispose of such unauthorized material without liability. The owner of the property where the unauthorized connection is located shall be liable for all costs and expenses of any type incurred to remove, disconnect, and dispose of the unauthorized tap or connection. (Ord. 5209 Sec. 2, 2007)

5.64.110: Appeal: Property owners in the preliminary assessment reimbursement area will have twenty (20) days after certified mail delivery of their preliminary assessment, to appeal their assessment. The appeal will be considered by Council during the latecomers reimbursement agreement formation hearing. (Ord. 5209 Sec. 2, 2007)

5.64.120: Rights and Non-Liability of City:

(1) The City reserves the right to refuse to enter into any latecomers reimbursement agreement or to reject any application therefor. All applications for a latecomers reimbursement agreement shall be made on the basis that the applicant releases and waives any claims for any liability of the City in establishment and enforcement of a latecomers reimbursement agreement.

(2) The City in no way guarantees payment of assessments by latecomers, or enforceability of assessments, or enforceability of the latecomers reimbursement agreement, or the amount(s) thereof against such persons or property. Nor will the offices or finances of the City be used for enforcement or collection of latecomers obligations beyond those duties specifically undertaken by the City herein. It shall be the obligations of the property owners or developers to take whatever authorized means are available to enforce payment of latecomers assessments; and, property owners or developers are hereby authorized to take such actions.

(3) The City shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through a latecomers agreement. Any funds collected under this Chapter that are unclaimed by property owners after ninety (90) days from the payment of each latecomers assessment shall be returned to the parties making payment to the City, if they may be reasonably found, minus a ten percent (10%) city handling, processing, and administrative fee, and except that at no time will the resulting connect fee be less than the city standard connect fee in effect at the time of the unclaimed fund return. After one hundred and twenty (120) days from the payment of each latecomers assessment, any remaining undeliverable funds shall inure to the benefit of the appropriate utility and/or fund approved by the City Council. (Ord. 5209 Sec. 2, 2007)