

CITY OF GARIBALDI  
ORDINANCE NO. 300

**AN ORDINANCE ALLOWING FOR THE CREATION AND  
ADMINISTRATION OF REIMBURSEMENT DISTRICTS.**

**SECTION**

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**THE CITY OF GARIBALDI ORDAINS AS FOLLOWS:**

**Section 1. Purpose.** The purpose of this chapter is to provide a method to reimburse a person who finances the construction of a public street, water, sewer, stormwater or park improvement in whole or in part for the cost of those improvements that benefit other properties. It is intended to be used to mitigate the cost of financing such public improvements by distributing those costs to other benefited property owners at the time those benefited property owners connect to or make use of the improvements. Property owners whose property would be subject to the reimbursement charge will be provided an opportunity to review and comment on pertinent information prior to the city establishing a reimbursement charge.

**Section 2. Definitions.** As used in this chapter:

A. "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or other successors or assigns; and any agent employee or any representative thereof.

B. "Reimbursement district" means the area that is determined by the council to derive a benefit from the construction of public street, water, sewer, stormwater or park improvements financed in whole or in part by a person without the formation of a local improvement district.

C. "Reimbursement charge" means the fee required to be paid by a property owner within a reimbursement district as determined by the city council to be the amount which is appropriate to reimburse another person for financing or causing the construction of street or utility improvements.

D. "Staff" means the City Administrator, Public Works Director and/or their assigns.

**Section 3. Application for a reimbursement district.**

A. Any person who chooses or is required as a condition of a development or building permit approval to construct a public street, water, sewer, stormwater or park improvement that will or could provide service to property other than property owned by that person may apply to the city to form a reimbursement district. The public street, water, sewer, stormwater or park improvements must include improvements located off-site or in a size greater than those which would otherwise ordinarily be required in connection with an application for development or building permit approval. The city may also initiate formation of a reimbursement district for city financed public street, water, sewer, stormwater or park improvements.

B. The application shall include the following:

1. A description of the location, type, and size of the public improvement.

2. A narrative explaining why the applicant considers that all or part of the cost of the improvements is eligible for reimbursement.

3. A map showing the properties to be included in the proposed district, including the properties owned by the applicant; and the front footage and square footage of each of the properties, or similar data necessary for calculating the apportionment of the costs.

4. A proposed methodology for apportioning costs among the benefited properties.

5. The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the city.

6. The estimated date of completion of the improvements.

C. The application for the formation of a reimbursement district must be made after city approval of the construction plans for the improvements proposed to be covered by the reimbursement district.

D. The application for the formation of a reimbursement district shall be accompanied by a processing fee established by council resolution.

**Section 4. Staff report.** The city administrator and public works director shall review the application for the establishment of a reimbursement district prior to scheduling a hearing. Staff may request the submittal of other relevant information from the applicant in order to assist in the evaluation. The city administrator shall prepare a written report for the council that:

A. Describes the extent to which the improvements will relieve other persons of the future need or requirement to construct all or a portion of the same improvements;

B. Recommends whether the reimbursement district should be formed;

C. Establishes the area to be included in the reimbursement district;

D. Sets the estimated cost of the public street, water, sewer, stormwater or park improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

E. Establishes a methodology for apportioning the cost among the parcels within the reimbursement district;

F. Establishes the annual percentage rate applied to the proposed reimbursement charge, which rate represents the annual return on investment of the reimbursable costs;

G. Establishes the amount to be charged ("administrative fee") by the city for the administration of the reimbursement district;

H. Establishes that the right to reimbursement exists, ten (10) years beginning on the date of the adoption of the formation resolution; and

I. Includes a draft resolution forming the reimbursement district.

#### **Section 5. Cost recovery from a reimbursement district.**

A. The cost to be reimbursed to the applicant shall be limited to the cost of the engineering, design and construction surveying, construction, acquisition and condemnation costs of acquiring the additional easements and right-of-way, the cost of permits, engineering and legal expenses and the processing fee.

B. A reimbursement charge shall be computed by the applicant and approved by the city for all properties that have the opportunity to utilize the improvements, including the property of the applicant, for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement charge computed for the property of the applicant. City-owned property shall not be subject to a reimbursement charge, unless prior to city acquisition of such a parcel the reimbursement district had previously been established over the property.

#### **Section 6. Formation of a reimbursement district.**

A. Notice of Public Hearing. The city shall provide mailed notice of the quasi-judicial public hearing on the applicant's request to form a reimbursement district to all owners of property, as shown on the most recent county assessor's assessment roll, within the proposed district. Notice of the hearing shall be mailed at least twenty days before the date of the hearing. The notice shall:

1. State that a reimbursement district has been proposed that includes the property of the person receiving the notice and the name of the applicant;

2. Briefly describe the reimbursement district, the public street, water, sewer, stormwater or park improvement to be reimbursed, the estimated amount of the reimbursement charge, and the circumstances under which the obligation must be paid;

3. A statement that the city administrator has prepared a report concerning the application and that the report is available for inspection by contacting the city;

4. State the time, date and place of the public hearing;

5. State that the council will accept both written and oral testimony;

6. Nature of the council action that may be taken.

B. Public Hearing and Council Action.

1. The council shall hold a public hearing on the application for the formation of a reimbursement district at which time any person may comment on the proposal.

2. After the public hearing is held, the council shall approve, deny or modify the recommendations contained in the city administrator's report.
3. The council's decision shall be based on the following:
  - a. Whether the properties against which a reimbursement charge is sought are or will be specifically benefited by the improvement.
  - b. Whether the costs for which a reimbursement charge is sought are based on appropriate information.
  - c. Whether the method for apportioning the costs to benefited properties is reasonably calculated to reflect the benefit each lot of parcel or land receives from the improvement.
  - d. Whether the annual percentage rate multiplier to be applied to the cost of construction reasonably reflects prevailing market rates.
4. The council's decision shall be in the form of a resolution. If a reimbursement district is established, the resolution shall include the area within the district, the estimated costs assigned to each parcel, the annual percentage rate multiplier to be applied, the city's administration fee, and the period of time that the right to reimbursement exists beginning on the date of adoption of the formation resolution. If the council amends the proposed resolution, the resolution may be adopted at the same meeting with amendments or adopted at a subsequent meeting.
5. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the process is not subject to mandatory terminations because of remonstrances. The council has the sole discretion after the public hearing to decide whether a resolution forming the reimbursement district shall be adopted.
6. A copy of the formation resolution adopted by the city council shall be mailed to the owners of all property subject to the reimbursement charge established therein and to any other persons who have requested a copy.

#### **Section 7. Adoption of reimbursement resolution.**

- A. After the project has been completed and accepted by the city, the applicant shall submit to the city the final costs and the proposed assignment of costs to each benefiting property based on the allocation method approved in the establishment of the reimbursement district. The applicant shall submit a copy of all bills for recoverable costs and evidence of their payment. The eligible costs, determination of benefiting properties, and method of assignment must be approved by city staff. The applicant has the burden of establishing the costs of the improvements.
- B. City staff shall submit the final costs and the proposed reimbursement resolution to the council for approval. Actual costs shall not be deemed reasonable if the public works director determines that such costs significantly exceed the market rates for similar projects. If such is found to be the case, city staff may recommend a reduction in the reimbursable costs to the prevailing market rate for similar projects.
- C. The city council shall hold a public hearing on the proposed assessment ordinance. The city shall provide mailed notice of the proposed assessment ordinance to the applicant and all property owners within the reimbursement district. Notice shall be mailed at least twenty days before the date of the council action on the assessment

ordinance. The notice shall set forth the time, date and place of the council action. The notice shall state the amount of the reimbursement charge proposed for each property.

D. After the public hearing, the council shall approve or modify the eligible costs of the improvements and the reimbursement charge for each property. The council's decision shall be in the form of an assessment lien by ordinance.

E. The date of the formation of the reimbursement district shall be the date that the council adopts the formation resolution.

**Section 8. Notice of adoption of assessment ordinance.** The city shall notify all property owners within the district and the applicant of the adoption of an assessment ordinance. The notice shall include a copy of the assessment ordinance and an explanation of when the property owner is obligated to pay the reimbursement charge and the amount of the charge.

**Section 9. Recording the resolution.** The city shall record the assessment ordinance and the reimbursement resolution with county clerk's office so as to provide notice to potential purchasers of property within the district. The recording shall create an assessment lien.

**Section 10. Contesting the reimbursement district.** No legal action intended to contest the formation of the district or the reimbursement charge, including the amount of the charge designated for each parcel, shall be filed after thirty days following adoption of the assessment ordinance.

**Section 11. Obligation to pay.**

A. An owner of property within a reimbursement district shall pay to the city the reimbursement charge established by the assessment ordinance when any of the following events occur within ten years from the date that the reimbursement district was formed:

1. The property owner receives final approval to subdivide or partition property; or
2. The property owner wishes to connect to the sewer line, water line, or make use of a street improvement or storm drainage improvement.

B. The reimbursement charge is due and payable as a precondition of receiving the first city permit applicable to the development activity undertaken, or, in the case of a connection to a line, as a precondition of receiving authorization for such a connection. A building permit shall not be issued until the reimbursement charge has been paid in full.

**Section 12. Administration.**

A. An owner of property within a reimbursement district may avoid the payment of the annual percentage rate multiplier, by paying the reimbursement charge in full within sixty days of the date that the assessment ordinance is adopted by the city council.

B. The right of reimbursement is assignable and transferable after written notice is delivered to the city, advising the city to whom future payments are to be made.

C. The applicant, or any successor of which the city is notified, has the obligation of providing the city with a current mailing address for the term of the

reimbursement district. If the applicant cannot be found with due diligence on behalf of the city, then the applicant or successor will be deemed to have waived his or her right to any reimbursement charge.

D. The city shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement charge, the city shall cause a record to be made of that property's payment and remit the charge to the applicant or their assignee, less the amount of the administration fee established by the city.


E. The reimbursement charge is not intended to replace or limit, and is in addition to any other existing fees or charges collected by the city.

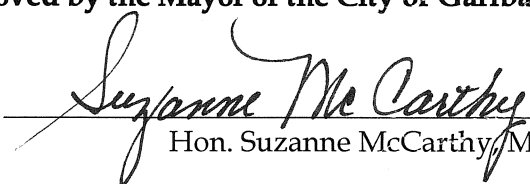
**Section 13. Effective Date; Declaration of Emergency.** This Ordinance being necessary for the immediate preservation of the public health, safety and welfare of the residents of the City of Garibaldi, an emergency is declared to exist, and this Ordinance shall take effect immediately upon its adoption.

**Section 14. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or unlawful, such decision shall not affect the remaining portions of this Ordinance. The Council hereby declares that it would have passed each phrase thereof, irrespective of the fact that any one or more of such provisions be declared unconstitutional or unlawful.

**Passed by the Common Council and approved by the Mayor of the City of Garibaldi,**  
this 20<sup>th</sup> day of August, 2007.

ATTEST:

  
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Kevin M. Greenwood, Administrator

  
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Hon. Suzanne McCarthy, Mayor