

CITY OF GRANITE FALLS

ORDINANCE NO. 577

**AN ORDINANCE OF THE CITY OF GRANITE FALLS,
WASHINGTON, ESTABLISHING PROCEDURES AND
REGULATIONS FOR ENTERING INTO DEVELOPER
REIMBURSEMENT AGREEMENTS AND ESTABLISHING
BENEFIT REIMBURSEMENT AREAS FOR WATER,
SEWER AND STORM DRAINAGE IMPROVEMENTS.**

WHEREAS, pursuant to Chapters 35.72 and 35.91 RCW, the City is authorized to contract with developers for the construction of water, sewer, and storm drainage improvements, which contracts may provide for reimbursement to the developers of a portion of the cost of such improvements; and

WHEREAS, the City Council has determined that under appropriate circumstances it will promote the health, safety, and general welfare of the citizens of Granite Falls to enter into such agreements and establish such reimbursement areas as defined and that rules and procedures should be specified for doing so;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to define the rules and regulations for executing contracts between the City and Developer(s) for private construction of municipal water, sewer, and storm drainage by providing for means for partial cost recovery through a charge to later users of the systems who did not contribute to the capital costs thereof and for establishing reimbursement areas defining which property is subject to such charges.

Section 2. Definitions.

- A. "City" (of Granite Falls) shall mean the legally incorporated municipality represented by the elected City Council and/or designed office or officials.

- B. **“Benefit Area” means that area which includes parcels of real estate adjacent to, or likely to require connection to or service by improvements made by the Developer who has applied to the City for a Developer Reimbursement Agreement pursuant to this Ordinance.**
- C. **“Developer” shall mean an individual or firm who proposes to improve real property within the City.**
- D. **“Property Owner” shall mean the legal owner of record at Snohomish County; Assessors Office on the day the Developer Reimbursement Agreement is signed by the parties.**
- E. **“Cost of Construction” means those costs incurred for design, acquisition of right-of-way and/or easements, labor, materials and installation as required to create an improvement which complies with City ordinance.**
- F. **“Developer Reimbursement Agreement” means a written contract between the City as approved by the City Council and executed by the Mayor, and one or more Developers providing for construction of water, sewer, and/or storm drainage and for partial reimbursement to the developer.**
- G. **“Developer Reimbursement Charge” means a fair charge to be paid by an owner of property within an area benefited by the private construction of municipal water, sewer, and/or storm drainage improvements pursuant to this Ordinance.**
- H. **“Water, Sewer and Storm Drainage Improvements” means the acquisition of right-of-way and/or easements, design, inspection and installation of improvements and includes the following:**
 - 1. **“Water System Improvements” includes such things as reservoirs, wells, mains and appurtenances such as, but not limited to, valves, fire hydrants, pumping stations and pressure reducing stations;**
 - 2. **“Sewer System Improvements” includes, but is not limited to, such things as treatment plant, mains retention/detention facilities, pumping stations, inlets, catch basins, ditches, swales, and manholes.**

3. "Storm Drainage Improvements" includes, but is not limited to, such things as mains, retention/detention facilities, pumping stations, inlets, catch basins, ditches, swales and manholes.

Section 3. Application for Developer Reimbursement Agreement.

- A. Any property owner, who uses private funds in an amount greater than \$10,000.00 to construct water, sewer and/or storm drainage improvements to connect to existing City water, sewer, or storm drainage for the purpose of serving the area in which the real property of such owner is located, may apply to the City to establish a Developer reimbursement agreement in order to recover a share of the costs from subsequent users of the system(s).
- B. Each application must be on a form prescribed by the City and must be accompanied by a non-refundable application fee in the amount of \$500.00.
- C. The City will require the applicant to submit a certified statement by a State of Washington licensed professional engineer containing an itemization of the total projected cost of the system improvements.
- D. To be eligible for processing, applications for Developer Reimbursement Agreements must be in compliance with all applicable federal, state and local laws, rules and regulations including but not limited to Building Codes and environmental laws.
- E. The proposed improvements must be consistent with the City's Comprehensive Plan, utility plan and/or transportation plan.
- F. The City must have the capability and capacity to service the water, sewer and/or storm drainage.

Section 4. Assessment Reimbursement Area and Charge.

The Developer shall formulate a benefit reimbursement area, and the City staff shall approve, based upon the following:

- A. The benefit reimbursement area shall be based upon a determination of which parcels are located so that they may be served by or use such improvement(s), including through laterals or branches connected thereto.

- B. The Developer shall determine, and the City staff shall approve, the benefit charges for parcels within the benefit reimbursement area by calculating the fair cost of construction of the improvement for each property which might tap, connect or be served by the system(s).**
- C. A notice containing the benefit reimbursement area boundaries, preliminary charges, and a description of the property owner's rights to request a public hearing with regard to the area boundaries and special benefits, shall be forwarded by registered mail to the property owners as shown on the records of the Snohomish County Assessor within the proposed benefit reimbursement area. If any property owner requests a hearing in writing within twenty (20) days of the mailing of the notice, a hearing shall be held. Notice of such hearing shall be given to all affected property owners. The Developer shall be responsible for providing the City with a listing of the property owners within the proposed benefit reimbursement area and shall provide the cost of postage at mailing.**
- D. After reviewing the public hearing testimony and/or all information submitted to the City, the City Council may approve, modify or reject the benefit reimbursement area and/or charges.**

Section 5. Implementation of developer Reimbursement Agreement.

- A. Upon approval of the Developer reimbursement agreement and charges and establishment of the benefit reimbursement area, the applicant may begin construction of the improvements; provided, however, that all other applicable federal, state and local laws have been complied with.**
- B. After the construction has been completed and accepted by the City in accordance with the terms of the Developer Reimbursement Agreement, the final cost of the improvements shall be reviewed against the preliminary assessments established by the City. Upon a showing of good cause, the agreement shall be modified to include cost overruns up to a maximum of 10 percent (10%). The agreement shall also be modified to reflect all decreases in cost.**
- C. The Developer reimbursement agreement and a notice of the agreement and charge shall be recorded in the Snohomish County**

Auditor's Office within thirty days (30) of the final acceptance of the project cost. The Developer shall record the agreement and notice.

- D. The City shall mail a copy of the agreement and notice to each owner of record of all properties subject to the Developer reimbursement charge. The Developer shall pay the cost of all postage.
- E. Once the agreement and notice are recorded and mailed, the Developer reimbursement agreement and charges shall be binding on all owners of record within the benefit reimbursement area.

Section 6. Rights and Non-Liability of City.

The City reserves the right to refuse to enter into any Developer reimbursement agreement or to reject any application thereof. All applicants for Developer Reimbursement Agreements shall be required to provide a written release, indemnification and hold harmless agreement releasing and indemnifying the City from all claims of any nature including property damage and personal injury arising out of the execution, establishment, enforcement and implementation of such agreement including claims arising during the course of construction and during the one year warranty period following acceptance of the improvements by the City. Such indemnification shall include attorney fees and costs reasonably incurred in the defense of such action. The City shall not be responsible for locating any beneficiary or survivor entitled to benefits under the Developer Reimbursement Agreement. Any collected funds not claimed by the Developer prior to the expiration of a Developer Reimbursement Agreement shall revert to the benefit of the appropriate utility and/or fund approved by the City Council.

Section 7. Term of Developer Reimbursement Agreements.

No Developer Reimbursement Agreement shall extend for a period longer than fifteen years from the date of the agreement.

Section 8. Ownership of Improvements or Systems.

- A. Upon approval of a Developer reimbursement agreement and the completion and acceptance of the construction, the improvement(s) and/or system(s) shall become the property of the City. In addition, the City shall charge and receive all fees or charges as authorized by Granite Falls Ordinance.

- B. A copy of the engineering “as built” plans, specifications and drawings, including all necessary right-of-way and easement documents shall be provided to the City prior to acceptance of the water, sewer, and/or storm drainage facilities. In addition to the documents detailed above, the Developer shall deliver to the City reproducible copies of all plans, and specifications.
- C. No connection to, or other use of, the facilities will be allowed or permitted until the City has officially accepted the construction.
- D. Transfer of ownership to the City shall be clear of all encumbrances.

Section 9. Defective Work.

The applicant or his assignee shall be responsible for all work found to be defective within two (2) years after the date of acceptance of the improvements by the City. The applicant, or his designee, shall provide the City with a Washington Surety “Maintenance Guaranty Bond” to the City in the amount of ten (10%) of the value of the water, sewer, and/or storm drainage system(s) to be in effect for a period of two (2) years from the date of final approval and acceptance of the system(s). If the applicant does not correct the work within a reasonable period of time after notice of the defect, the City shall be reimbursed for costs of correcting such defective work either by the applicant or by the bond proceeds.

Section 10. Connection/Use Pre-Payment Requirement.

- A. Connection to or use of the system(s) shall be prohibited and development permission shall not be granted unless the City has received payment of the Developer reimbursement charge, including administrative cost in the amount of \$50.00.
- B. The City will exercise its best efforts to assure compliance with this Section; however, in no event shall the City incur liability for an unauthorized connection to or use of the facilities.

Section 11. Hook-Up charges/Removal of Unauthorized Connections or Taps.

- A. Where any tap or connection is made into any water, sewer and/or storm drainage system(s) without payment being made as required

by this Ordinance, the City may cause to be removed such unauthorized tap or connection without any liability to the City or City Officials.

Section 12. Payments of Developer Reimbursement Charge.

- A. Each payment of the Developer reimbursement charge shall be made to the City. The City shall pay the amounts due the Developer within sixty (60) days.
- B. Throughout the term of the agreement the Developer shall certify annually in January the Name(s) and address(es) of the beneficiary of any reimbursement charge. The City is not responsible for locating beneficiaries to benefits under any agreement. Failure to receive the annual certification required under this subsection shall give the City cause to refuse to make payment under the agreement. The developer may not assign any rights under the reimbursement agreement without the written consent of the City which will not be unreasonably withheld.

Section 13. Severability Clause.

If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

THIS ORDINANCE PASSED AND ADOPTED by the City Council of the City of Granite Falls, Washington, at the meeting of _____ day of _____, 1997.

Bella Morris
Mayor

Attest:
Gerry James
City Clerk

Approved as to Form:
Cheryl L. Beyer
City Attorney

FIRST READING:	June 11, 1997	DATE OF PUBLICATION:	June 29, 1997
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