

c. Provide the cost of the improvements to be reimbursed. (Note: If the application is filed after construction, the application shall include the actual cost of construction as evidenced by a contract, receipts, bids or other similar documents. If the application is filed prior to construction, the application shall include the estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other similar evidence satisfactory to the City Administrator.)

d. Provide the date that the City of Creswell accepted the public improvements or the date that the improvements are estimated to be completed.

e. Attach a separate map (to scale) showing the properties to be included in the proposed district. Specifically indicate the City's zoning designation, the square footage or frontage of the property or properties, and identify all properties owned by the applicant, if any.

f. Note: The City Administrator may require the submission of any additional relevant information.

Information on the Review Process for the Zone of Benefit/Reimbursement District

City of Creswell Ordinance No. 416

Section 1. Purpose.

This ordinance provides a method to reimburse a person or the City for financing the construction of a sewer, water, surface water management, or street improvement in whole or in a disproportionately large part. 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 improvement.

Section 2. Definitions.

(1) Person. An individual or any legal entity, including the City of Creswell.

(2) Zone Connection Charge. The charge imposed pursuant to this ordinance, designed to reimburse a person for the costs of financing a sewer, street surface water management, or water improvement. The Zone Connection Charge is not intended to limit or replace, and is in addition to, any other existing fees or charges collected by the City.

(3) Zone of Benefit. The area benefited by the construction of sewer, water, surface water management or street improvements financed in whole or in part by a person without the formation of a local improvement district. A Zone of Benefit may be formed in conjunction with a local improvement district where a person finances a share of the cost of the improvement that is larger than the share that would result from a uniform application of the district assessment formula to property located in the district and owned by the person.

Section 3. Initiation of Proceedings.

(1) Any person may apply in writing to the City to form a Zone of Benefit where the person chooses or is required as a condition of permit approval to construct a street, sewer, surface water management or water improvement that includes additional or oversized improvements that would or could provide service to property other than property owned by the applicant.

(2) An application to form a Zone of Benefit may be made no later than three months after completion and acceptance by City of the street, sewer, surface water management or water improvements. The City Administrator may waive this deadline if the applicant demonstrates that the delay was not caused by the applicant, and was created by unanticipated or unforeseen circumstances.

(3) The application shall include the following:

(a) A description of the location, type, size and cost of the public improvement.

(b) A narrative explaining why the applicant believes all or part of the cost of the improvement is eligible for reimbursement pursuant to this ordinance.

(c) A map showing the properties to be included in the proposed district, including the City's zoning designation; the square footage or frontage of the property or properties; and identification of the properties owned by the applicant, if any.

(d) The cost of the improvements to be reimbursed. If the application is filed after construction, the application shall include the actual cost of construction as evidenced by a contract, receipts, bids or other similar documents. If the application is filed prior to construction, the application shall include the estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other similar evidence satisfactory to the City Administrator.

(e) The date that the City accepted the public improvements or the date that the improvements are estimated to be completed.

The City Administrator may request the submittal of any additional information deemed relevant.

Section 4. Formation of Zone of Benefit.

(1) Upon City Administrator's receipt of a complete application for the establishment of a Zone of Benefit, the City Administrator will set a hearing with the City Council to consider the request. Not less than ten (10) days before the Hearing, notice of the hearing shall be: (1) published in a paper of general circulation, and (2) mailed by regular mail to the applicant and to all property owners within the proposed Zone of Benefit as shown on the most recent assessment role in the county assessor's office. Notice shall be deemed effective on the date of mailing. Failure to receive notice by the applicant or affected property owners shall not invalidate or otherwise affect formation of the Zone of Benefit.

(2) The notice shall:

(a) State a Zone of Benefit has been proposed that includes the property of the person receiving notice;

(b) Briefly describe the Zone of Benefit, the street, water, sewer, or surface water management improvement to be reimbursed; the amount (or estimated amount) of the Zone Connection Charge; and the circumstances under which the charge must be paid; and

(c) Set the time, date, and location of the Hearing.

Section 5. Hearing.

(1) At the hearing, the City Council shall consider: (a) the proper boundaries to the Zone of Benefit, taking particular consideration of all properties contiguous to or otherwise located so as to directly benefit from the improvement; and (b) the reasonable actual or estimate of costs for which applicant may be reimbursed. The applicant shall not be entitled to reimbursement for any costs in excess of reasonable actual costs. If the Zone of Benefit is formed before actual costs are known, the Zone Connection Charge may be based on estimated costs. If estimated costs are used, the methodology or the certificate of payment or both shall provide for a recalculation of the cost not later than three (3) months after completion and acceptance of the improvement by the City.

Actual costs shall not be deemed reasonable if the City Administrator determines that such costs significantly exceed prevailing market rates for similar projects. In such a case, the City Administrator may reduce the reimbursable cost to the prevailing market rate for similar projects. In addition, the following costs shall not be subject to reimbursement:

(a) Costs for that portion of the improvement that benefits the applicant's own property.

(b) Costs for improvements that are not dedicated to and accepted by the City as a public improvement.

(c) Costs for a public improvement that is required as a condition of development approval, except in cases where the nature and degree of the public improvement is disproportionate to the impacts of the development or where the City desires an oversized or additional improvement beyond that which is roughly proportional to the impact of the development

Section 6. Resolution.

(1) If the Council determines that formation of a Zone of Benefit is appropriate, the Council shall establish that Zone by resolution. The resolution shall:

(a) Establish the area of the Zone of Benefit, the Zone formation date, and the date when the right of reimbursement ends.

(b) Set forth the actual or estimated cost of the street, water, surface water management, or sewer improvements, and the portion of the costs for which the applicant should be reimbursed.

(c) Establish a methodology for spreading the cost among the properties within the Zone of Benefit and, where appropriate, defining a "unit" for applying the reimbursement charge to property that may, with City approval, be partitioned, adjusted or subdivided at some future date. The methodology should consider the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate making principles employed to finance public improvements, and other factors deemed relevant by the Council. Prior contributions by property owners shall only be considered if the contribution was for the same type of improvement and at the same location.

(d) Establish the Zone Connection Charge for the Zone.

(e) Direct that a certificate of payment and right of reimbursement be issued to the Zone applicant.

(2) Upon the resolution's adoption, it shall be sent to the applicant and all affected property owners, and recorded in the office of the county recorder to provide notice to potential purchasers of property within the Zone. The recording shall not create a lien. Failure to make such a recording shall not affect the legality of the formation or the obligation to pay the Zone Connection Charge.

Section 7. Challenge to Formation.

No legal action intended to challenge or contest the formation of the Zone of Benefit, or the methodology or amount of the Zone Connection Charge shall be filed after sixty (60) days following formation of the Zone of Benefit.

Section 8. Certificate of Payment and Right to Reimbursement.

The certificate of payment and right to reimbursement is a contractual right between the City and the applicant. The certificate shall, at a minimum, identify the person receiving the right of reimbursement, the reimbursed amount per unit, the area of the Zone of Benefit, the date of Zone formation, and the date upon which the right to reimbursement ends. The applicant's right to

reimbursement is assignable and transferable after written notice is delivered to the City advising the City to whom future payments are to be made.

Section 9. Payment.

(1) An owner of property within any Zone of Benefit shall pay the City, in addition to any other applicable fees and charges, the Zone Connection Charge established by City resolution when any of the following events occur:

(a) The property owner receives final approval for a development permit to subdivide or partition property located within the Zone.

(b) A use of property is expanded to create additional "units," as that term is defined in the resolution for the particular zone. The term "unit" is not limited to residential uses.

(c) A property owner connects to the sewer line or water line or makes use of the surface water management or street improvement. As used in this subsection, "makes use of the surface water management improvement" means installation of an improvement that substantially increases impervious surface on the property at the time of or following construction of the surface water management improvement for which the Zone of Benefit has been formed. As used in this subsection, "makes use of the street improvement" means installation of an improvement or changing the use of the property at the time of or following construction of the street improvement that increases traffic or congestion on the road improvement for which the Zone of Benefit was formed.

(2) The Zone Connection 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 the connection permit.

(3) The Zone Connection Charge may be paid in installments in the same manner as a City system development charge.

(4) A person who becomes obligated for payment of the Zone Connection Charge as a result of connection to a line constructed through the local improvement district process and who owns property within the district upon which an assessment is levied may be assessed for the Zone Connection Charge in addition to the assessment levied through the local improvement district.

(5) If the Zone Connection Charge is paid within ten (10) years from the Zone formation date established by resolution, the City shall pay to the Zone applicant the amount specified in the appropriate Zone of Benefit resolution. If the City paid the initial cost of construction or a portion thereof, the City will deposit that amount in the fund corresponding to the improvement made. If there is an unpaid assessment for such construction against a zone applicant, the City may apply the Zone Connection Charge to this outstanding assessment. Any fees received by the City after ten (10) years from the Zone formation date shall be the sole property of the City and deposited in the appropriate fund.

FOR OFFICIAL USE ONLY

STAFF REVIEW

Date Received: _____ Received By: _____ File No: _____

Fee paid Amount: \$ _____

Owner's Signature or Letter of Authorization

Date Notice Mailed (*if applicable*): _____

City Council Hearing Date (*if applicable*): _____