

Chapter 2.10  
REIMBURSEMENT DISTRICTS

Sections:

2.10.010	<u>Definitions.</u>
2.10.020	<u>Application for a Reimbursement District.</u>
2.10.030	<u>City Engineer's Report.</u>
2.10.040	<u>Amount to be Reimbursed.</u>
2.10.050	<u>Public Hearing.</u>
2.10.060	<u>Notice of Public Hearing.</u>
2.10.070	<u>City Council Action.</u>
2.10.080	<u>Notice of Adoption of Resolution.</u>
2.10.090	<u>Recording the Resolution.</u>
2.10.100	<u>Contesting the Reimbursement District.</u>
2.10.110	<u>Obligation to Pay Reimbursement Fee.</u>
2.10.120	<u>Public Improvements.</u>
2.10.130	<u>Multiple Public Improvements.</u>
2.10.140	<u>Collection and Payment: Other Fees and Charges.</u>

2.10.010     Definitions.

The following terms are definitions for the purposes of this Chapter.

- (1) "City Engineer" or "Engineer" means the person holding the position of City Engineer or any officer or employee designated by that person to perform duties stated within this chapter.
- (2) "City" means the City of North Plains.
- (3) "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.
- (4) "Applicant" means a person, as defined in subsection (3), who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The "applicant" may be the City.
- (5) "Street Improvement" means a street or street improvement conforming with standards in the North Plains Zoning and Development Ordinance and including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

- (6) "Water Improvement" means a water or water line improvement conforming with standards in the North Plains Zoning and Development Ordinance and including this chapter but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.
- (7) "Sewer Improvement" means a sewer or sewer line improvement conforming with standards in the North Plains Zoning and Development Ordinance and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.
- (8) "Public Improvement" means any construction, reconstruction or upgrading of a water, sanitary sewer or storm sewer line, public street (including bicycle lanes) or sidewalk or under-grounding of public utilities.
- (9) "Front Footage" means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement is calculated. Front footage shall be the amount shown on the most recent county tax assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the City Engineer for calculating front footage. Front footage excludes the front footage of property owned by the City, including rights-of-way, but includes the development.
- (10) "Reimbursement Agreement" means the agreement between an applicant and the City which is authorized by the City Council and executed by the Finance Director, providing for the installation of and payment for reimbursement district public improvements.
- (11) "Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.
- (12) "Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district.

- (13) "Utilize" means to apply for a building permit which will use or increase the use of a public improvement, to connect to a public improvement, or to otherwise increase the use of an improvement.

2.10.020 Application for a Reimbursement District.

- (1) Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Engineer, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval or must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off-site sidewalks, connection of street sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this chapter.
- (2) The application shall include the following:
- (a) A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.
  - (b) A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.
  - (c) Post-construction: The actual cost of the improvements as evidenced by receipts, invoices or other similar documents. Pre-construction: 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 Engineer.
  - (d) Post-construction: The date the City accepted the public improvements. Pre-construction: The estimated date of completion of the public improvements.

- (3) The application may be submitted to the City prior to the installation of the public improvement but not later than 180 days after completion and acceptance of the street, water or sewer improvements. However, the City Engineer may waive this requirement upon the showing by the applicant of good cause of the delay, that the delay was not created by the applicant, and that the delay was unavoidable due to unanticipated or unforeseen circumstances.

2.10.030 City Engineer's Report.

The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

- (1) Whether the applicant will finance or has financed some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant.
- (2) The area to be included in the reimbursement district.
- (3) The actual or estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed for each improvement.
- (4) A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The methodology should include consideration of 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 City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location.
- (5) The annual fee adjustment which shall be applied to the reimbursement fee beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and determined by the City Council and computed against the reimbursement fee as simple interest and will not compound. The City Engineer may take into account the cost of any financing, including prepayment penalties, loan fees, the actual percentage rate of interest being paid by the applicant, and opportunity costs lost when recommending the annual fee adjustment to the City Council.

- (6) The amount to be charged by the City for administration of the agreement. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. The administration fee is due and payable to the City at the time the agreement is signed.
- (7) The period of time that the right to reimbursement exists if the period is less than five years.
- (8) Whether the street, water and sewer improvements will or have met City standards.

2.10.040 Amount to be Reimbursed.

- (1) The cost to be reimbursed to the applicant shall be limited to the cost of construction, including the acquisition and condemnation costs of acquiring additional right-of-way, the cost of permits, engineering and legal expenses, and the annual fee adjustment fixed and determined by the City Council.
- (2) A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The fee shall be calculated separately for each type of improvement. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant.

2.10.050 Public Hearing.

- (1) Within a reasonable time after the City Engineer has completed the report required in Section 2.10.030 of this chapter, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.
- (2) If a reimbursement district is formed prior to construction of the improvement(s), a second public hearing shall be held after the improvement has been accepted by the City. At that time, the City Council may modify the resolution to reflect the actual cost of the improvement(s).

2.10.060 Notice of Public Hearing.

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this Chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.

2.10.070 City Council Action.

- (1) After the public hearing held pursuant to Section 2.10.050(1) of this chapter, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving City permits applicable to development of that parcel as provided for in Section 2.10.110 of this chapter.
- (2) When the applicant is other than the City, the resolution shall instruct the Finance Director to enter into an agreement with the applicant pertaining to the reimbursement district improvements. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:
  - (a) The public improvement(s) shall meet all applicable City standards.
  - (b) The total amount of potential reimbursement to the applicant.
  - (c) The total amount of potential reimbursement shall not exceed the actual cost of the public improvement(s).
  - (d) The annual fee adjustment set by the City Council.
  - (e) The applicant shall guarantee the public improvement(s) for a period of 12 months after the date of installation.

- (f) The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district.
  - (g) The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.
  - (h) Other provisions as the City Council determines necessary and property to carry out the provisions of this chapter.
- (3) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

2.10.080 Notice of Adoption of Resolution.

The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee.

2.10.090 Recording the Resolution.

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Recorder so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

2.10.100 Contesting the Reimbursement District.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following the adoption of a resolution establishing a reimbursement district.

2.10.110 Obligation to Pay Reimbursement Fee.

- (1) The applicant for a permit related to property within any reimbursement district shall pay to the City, in addition to any other applicable fees and charges, the reimbursement fee established by the City Council, together with the annual fee adjustment, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

- (a) To apply for a building permit which will use or increase the use of a public improvement;
  - (b) To connect to a public improvement or otherwise increase the use of a public improvement.
- (2) "Increase the use" means:
- (a) For sanitary sewer or storm sewer lines: to make a physical change requiring a building or development permit on the intervening property which increases the volume discharged into the line.
  - (b) For water lines: to make a physical change requiring a building or development permit on the intervening property which increases the amount of water used.
  - (c) For public streets: to make a physical change requiring a building or development permit on the intervening property which increases the trips on the street or creates a new entrance onto the street.
- (3) The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee of the City shall be liable for payment of any reimbursement fee, annual fee adjustment, or portion thereof as a result of this determination.
- (4) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this chapter is intended to modify or limit the authority of the City to provide or require access management.
- (5) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in section 2.10.110(1) unless the reimbursement fee, together with the annual fee adjustment, has been paid in full. Where approval is given as specified in section 2.10.110(1) but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.
- (6) The date when the right of reimbursement ends shall not extend beyond five years from the district formation date. Upon application for an extension by the applicant, the City Council may, by resolution, authorize up to two five-year extensions of the right of reimbursement under the Agreement.

- (7) The reimbursement fee is immediately due and payable to the City by intervening property owners upon utilization of a public improvement. If connection is made or construction commenced without required City permits, then the reimbursement fee is immediately due and payable upon the earliest date that any such permit was required. No City permit of any kind for the intervening property shall be issued until the reimbursement fee is paid in full.
- (8) Whenever the full reimbursement fee has not been paid and collected for any reason after it is due, the Finance Director shall report to the City Council the amount of the uncollected reimbursement, the legal description of the intervening property on which the reimbursement is due, the date upon which the reimbursement was due and the intervening property owner's name or names. The City Council shall then, by motion, set a public hearing date and direct the Finance Director to give notice of that hearing to each of the identified intervening property owners, together with a copy of the Finance Director's report concerning the unpaid reimbursement fee. Such notice may be either by certified mail or personal service. At the public hearing, the City Council may accept, reject or modify the Finance Director's report. If the City Council accepts or rejects the Finance Director's report and determines that the reimbursement fee is due but has not been paid for whatever reason, the City may take any action including all legal or equitable means necessary to collect the unpaid amount. An unpaid reimbursement fee shall prohibit any issuance of permits by the City for the intervening property.

2.10.120 Public Improvements.

Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the City.

2.10.130 Multiple Public Improvements.

More than one public improvement may be the subject of a reimbursement district.

2.10.140 Collection and Payment: Other Fees and Charges.

- (1) Developers shall receive all reimbursement collected by the City for their public improvements. Such reimbursement shall be delivered to the developer for as long as the reimbursement district agreement is in effect. Such payments shall be made by the City within 90 days of receipt of the reimbursements.
- (2) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City.

(ORD. 244, April 15, 1996; repeals Ord 179)