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COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 90-068
RELATING TO LATECOMERS COST RECOVERY

Section 1. Snohomish County Code section 13.95.010, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.010 Cost Recovery Authorized. In accord with chapter 35.72 RCW and the provisions of this chapter, the council may form ((a)) an assessment reimbursement ((district)) area and contract for the reimbursement to the county road fund and/or the owner the costs of county road improvements required as a prerequisite to further property development.

New Section. Section 2. A new section 13.95.015 is added to Chapter 13.95 of the Snohomish County Code:

13.95.015 Definitions. For the purposes of this chapter, the following definitions apply. Insofar as not inconsistent with this chapter, the definitions contained in 13.01.010 shall also apply to this chapter.

(1) Assessment Reimbursement Area. The assessment reimbursement area for a particular road improvement or group of improvements is that geographic area adjacent to, or in the vicinity of, the road improvement(s), which includes parcels which, upon development, would be subject to road improvement and impact mitigation obligations pursuant to the Snohomish County Environmental Policy Ordinance, Title 23 SCC; the Snohomish County Traffic Impact Mitigation Ordinance, Title 26B SCC; the Platting Code, Title 19 SCC; the Zoning Code, Title 18 SCC; and other land development ordinances and regulations requiring provision for similar road improvements and/or traffic impact mitigation.

(2) Benefited Property. Property is said to be benefited from a road improvement or group of improvements where the property would require similar road improvements or traffic mitigation obligations upon development under the land development impact mitigation ordinances and regulations of the county, but will not be required to provide similar road improvements and/or traffic impact mitigation measures because they will have already been provided for in a contract for improvements pursuant to this chapter.

(3) Development. "Development" means all subdivisions, short subdivisions, industrial or commercial building permits, conditional or special use permits, or building permits including building permits for multifamily and duplex residential structures, and all similar uses in unincorporated Snohomish County, and other similar projects requiring land use permits or approval by Snohomish County, except single family residences on existing tax lots.

(4) Owner. "Owner" means the owner according to the records of the office of the county auditor of real property.

Section 3. Snohomish County Code section 13.95.020, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.020 Establishment upon Owner Application. Where county ordinance requires public road ((developments)) improvements as a prerequisite to development, an owner may apply, upon forms prescribed by the director, to the council for the establishment of ((a)) an assessment reimbursement ((district)) area. The application shall include:

(1) A detailed description of the owner's development proposal.

(2) A detailed description of the county road improvements that will be installed by the owner.

(3) An estimate of the cost of the improvement(s).

(4) A map showing the preliminary area boundaries for the specific properties the owner believes to be ((specially benefited by the improvements)) benefited properties in that they would require similar road improvements or road impact mitigation as a result of development.

(5) A list containing the ((legal description)) tax account number and the names and addresses of each owner of record, contract seller and contract purchaser and mortgagee, if any, of each ownership of property as shown on the tax rolls of the county treasurer within the ((benefited)) proposed reimbursement area.

(6) A statement of the estimated amount of ((special benefits)) benefit to the property owner which will accrue to each ownership, the estimated amount which should be assessed against each ownership based upon such ((special)) benefits, and the bases for calculating such ((benefits and)) pro rata share of the assessment((s)) reimbursement as to each ownership within the proposed reimbursement assessment area.

(7) A statement of the period, not to exceed 15 years, for which ((partial)) pro rata share reimbursement will be required.

Section 4. Snohomish County Code section 13.95.030, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.030 County Funding. The county may participate in funding improvements specified in this chapter. The director may initiate a request to the council for the establishment of a reimbursement ~~((district))~~ area. The director may also request the council to include county funding in an owner-initiated assessment reimbursement ~~((district))~~ area. The director will consider the general benefit, county-wide priority of the proposed road improvements, and the impacts of possible assessments upon benefited properties in considering whether or not to request county participation in funding.

Section 5. Snohomish County Code section 13.95.040, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.040 Council Consideration of Sufficiency. Upon receiving an application for establishment of an assessment reimbursement ((district)) area and approval of an assessment reimbursement contract, the council shall consider the sufficiency of ~~((a))~~ the assessment reimbursement ((district)) area proposal using the following criteria:

(1) The level of development existing or immediately proposed in the assessment reimbursement area ~~((specially benefited))~~.

(2) The ~~((special))~~ benefit to undeveloped, or underdeveloped, properties compared to the pro rata share of projected costs to be assessed to that property, and the impacts of assessments upon such properties.

(3) The existing and projected level of service and/or safety hazard on the county roads involved.

(4) The condition of the roads to be improved.

(5) Whether or not further improvement can occur without roadway improvements.

Upon review of an application, the council in its discretion and considering any factors it deems appropriate, may reject an application without hearing.

Section 6. Snohomish County Code section 13.95.050, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.050 Formation of Assessment Reimbursement ((District))

Area.

(1) If the council finds the request to be sufficient, it shall instruct the director and prosecuting attorney to draft an ordinance and set a public hearing for consideration of the draft ordinance. The draft ordinance shall constitute the preliminary determination on the assessment reimbursement area and shall:

(a) Define the improvements for which reimbursements are to be made.

(b) Designate each reimbursement area ((district)) by a separate number.

(c) Describe the specific boundary of the ((specially benefited property)) assessment reimbursement area.

(d) Define the estimated cost of the improvement and the estimated contribution thereto, if any, to be made by the county.

(e) Define what share of costs will be paid by each property ownership ((specially benefited)) using a method of cost apportionment which is based upon the benefit to the property owner from the improvement(s).

(f) Define when and how the reimbursements are to be paid.

(g) Define the conditions ((and)) of participation by and reimbursement to the county and owner involved in financing the county road improvements.

(h) Define any participation by the Washington State Department of Transportation provided that the Department has entered into an agreement with the county concerning State participation.

(2) The director will prepare and submit to the Council prior to the public hearing a preliminary determination ((diagram)) indicating the following:

a) The lots, tracts, or parcels benefited by the improvements because they would require similar improvements and similar or equivalent traffic impact mitigation upon development ((specially benefited)).

b) The estimated cost, and the method of calculating such cost, to be reimbursed upon development by each lot, tract or parcel.

(3) A notice of hearing on the proposed ordinance shall be published no less than ten days before the date of the hearing in the county's official newspaper. In addition, the county may publish in a newspaper of general circulation in the area of the assessment reimbursement ((district)) area a similar notice.

(4) A notice of hearing shall be given each owner of record ((~~7~~ or reputed owner~~7~~)) of each lot, tract or parcel of land or other property within the proposed assessment reimbursement area ((~~district~~)) by mailing by certified mail, ((~~return receipt requested~~)), said notice to each owner as shown on the tax rolls of the county treasurer. The notice of hearing shall be mailed not less than twenty days before the date of the hearing.

(5) The notice shall refer to the proposed ordinance and designate the proposed assessment reimbursement ((~~district~~)) area by number and include the following:

(a) The preliminary determination of the ((~~assessment reimbursement~~)) area boundaries and assessments.

(b) The nature of the proposed county road improvements.

(c) The total estimated cost of the county road improvement(s) and the estimated portion, if any, to be made by the county. The cost to be borne by the county shall be broken down into that portion, if any, to be borne by the county for improvements that benefit the general public for which the county shall not be reimbursed, and that portion, if any, that will be borne by the county for improvements that benefit that portion of the public who will use the developments within the assessment reimbursement area for which the county shall be reimbursed.

(d) A description of the property owners' rights and options and the county's options to secure reimbursement for a portion of the costs of county road improvements.

(e) The proportion((~~a~~)) of the total costs to be borne by ((~~the~~)) reimbursement assessments.

(f) The estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel and the time period for which reimbursement may be required which shall not exceed fifteen (15) years.

(g) The time, date, and place of the hearing before the council.

(6) On the date and at the time specified in the notice((s)) the council will conduct a hearing and listen to testimony as it relates to the desirability and the sufficiency of the proposed assessment reimbursement ((~~district~~)) area and methods of calculating reimbursement assessments and the amounts thereof. The council may continue the hearing to allow for further information to be provided. When the council has determined that adequate information has been provided it may close public testimony.

(7) Following the hearing, the council may introduce an ordinance which establishes the assessment reimbursement ((~~district~~)) area and determines the amount of reimbursement assessment to be charged to each ((~~benefited~~)) lot, tract or parcel and provide for the payment and collection of such assessments. Such ordinance shall be advertised and considered in the normal manner for such ordinances.

Section 7. Snohomish County Code section 13.95.060, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.060 Costs Eligible for Reimbursement. The council may provide for the reimbursement of all or part of the costs advanced by the county road fund or the owner or owner's assigns for such a county road improvement project, including:

- (1) The cost of all the construction or improvement authorized, including that portion of the construction or improvement within the limits of any existing right-of-way;
- (2) The estimated costs and expenses of all engineering and surveying necessary ((to be done by the county engineer or under his direction or by such other consultants as may be employed by the county));
- (3) All costs of acquiring necessary rights-of-way;
- (4) The cost of all advertising, mailing, and publishing of notices;
- (5) The cost of legal services and any other expenses incurred by the county in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds;
- (6) County costs of administering the fund.

Section 8. Snohomish County Code section 13.95.070, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.070 Reimbursement Assessments.

- (1) Any reimbursement assessment shall be a pro rate share of costs of construction and contract administration of the improvement. The reimbursement share shall be determined by using a method of cost apportionment which is based upon the ~~((special))~~ benefit ~~((of))~~ to the property owner from the project.
- (2) A separate account shall be established for each assessment reimbursement area ~~((district))~~.
- (3) No assessment reimbursement shall become payable to the owner or county under the assessment reimbursement contract until the property assessed is subject to development as defined in SCC ~~((26B-51-020))~~ 13.95.015(3); and the ordinance forming the ~~((district))~~ area ~~((may))~~ shall provide that payment of the assessment by the ordinance is a condition of the issuance of any permit or approval of development of the property assessed. ~~((Assessments shall not bind other than owners of record within the assessment area and shall not bind owners or their property who contributed to the original cost of the project.))~~ Assessment reimbursement contracts filed for record in the Snohomish County Auditor's Office within 30 days of the final execution of the

ordinance forming the assessment reimbursement area shall be binding on all owners of record within the assessment reimbursement area who are not party to the assessment reimbursement contract for the duration of the assessment reimbursement contract which may not exceed 15 years. The treasurer is hereby designated to collect and reimburse assessments under this chapter.

(4) If the actual costs of the project are less than the cost base utilized in determining assessments, assessments shall be adjusted downward to reflect actual costs. If the costs of the project are more than the cost utilized in determining assessments, the owner shall be responsible for payment of such excess with no reimbursement to be provided for the excess.

Section 9. Snohomish County Code section 13.95.080, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.080 Owner-County Contract.

(1) Subsequent to the adoption of an ordinance forming ((a)) an assessment reimbursement ((district)) area the owner or owners contributing funds for the project shall agree in a signed contract for contribution of funds, construction, improvement, costs, assessment, reimbursement, administration costs, and other conditions, ((in)) on a form approved by the county. The contract shall provide that the owner or owners agree to the reimbursement assessments and the assessment reimbursement area determined by the council as provided in the contract. Owner-county contracts provided for in ((a)) an assessment reimbursement ((district)) area ordinance shall be approved and executed on behalf of the county by the county executive.

(2) The final contract, including the reimbursement assessment area boundaries and assessment roll, shall be recorded in the county auditor's office within thirty days of the effective date of the ordinance forming the ((district)) area. If the contract is so recorded, it shall then be binding on the owners of record with in the reimbursement assessment area who are not parties to the contract for a period not to exceed fifteen years after the contract is recorded.

(3) The director shall mail, by certified mail ((7 return receipt requested)) a copy of the contract to each owner of record of property within the assessment reimbursement area ((district)).

(4) In the event that an owner or owners who are party to a reimbursement contract sell the property the reimbursements shall be paid to said owner or owners and not their successors unless the right to the reimbursements is assigned by said owner or owners are otherwise transferred by operation of law.

Section 10. Snohomish County Code section 13.95.090, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.090 Construction of Improvements. The improvements for which reimbursement is sought must be constructed after July 1, 1987, and, with written permission of the director, may be constructed before or after the effective date of the ordinance forming the reimbursement assessment area ((district)). If the county is to be a participant, no construction shall be undertaken by the county until the county receives guarantees, security or assurances acceptable to the director that the owner will contribute costs, and contract for or otherwise provide or pay for improvements as required in the reimbursement contract. The owner shall be responsible for performance of all obligations under the contract and completion of construction of the project except where undertaken by the county. All records supporting expenditures and payment therefor shall be submitted to the director for review and filing. The director may verify costs and payments as necessary to assure their accuracy. Any work done by the county shall be done by competitive bidding as provided in chapter 3.04 SCC. All work shall comply with Title 13 SCC, and all other applicable laws. No extensions of time to complete the owner's obligations under the owner-county contract will be granted, except as provided in said contract. If an owner fails to complete construction, contribute its share of costs, or otherwise fails to perform any of its other obligations as provided by its owner-county contract, the director shall, after giving the owner thirty days notice to cure such breach, declare the owner-county contract terminated. All obligations to pay assessments for any owner costs shall thereupon cease upon termination by the director, and the director shall file with the county auditor a notice that the owner-county contract has been terminated and that all assessments to reimburse the owner are abated.

Section 11. Snohomish County Code section 13.95.100, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.100 Reimbursement to Owners and the County. Owners who have followed all of the procedures of this chapter and entered into a contract may be reimbursed a share of the costs which they incurred in constructing the road ((facilities)) improvements. Such reimbursement shall be made as provided in the contract entered into pursuant to Section 13.95.080. Reimbursement for costs advanced by the county shall be provided for in said contract and returned to the county road fund.

Section 12. Snohomish County Code section 13.95.110, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

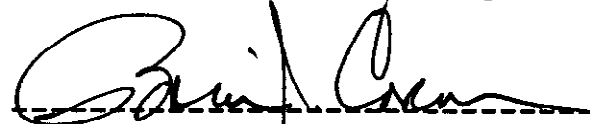
13.95.110 Effect of Annexation. Annexation to a city or town of all or a portion of ((an)) a reimbursement assessment area shall not affect liability for assessment charge of properties so annexed nor responsibilities of an owner under ((his)) the contract. If any property of the owner is annexed by a city or town prior to completion of construction, all responsibility of the county with respect to portions of the property not constructed shall cease unless a supplemental agreement is made with the annexing city or town assuring reimbursement of county funds expended on the project.

Section 13. Snohomish County Code section 13.95.910, adopted by Ordinance 87-011 on April 15, 1987, is amended to read:

13.95.910 Effective Date. This ordinance shall take effect on ((July 17 1987)) Feb. 9, 1991. ((The director may immediately take such steps as are necessary to ensure that this act is implemented on its effective date)).

PASSED this 14th day of November, 1990.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

Approved as to form:


Deputy Prosecuting Attorney

ATTEST:

Shula McCallister
Clerk of Council, *asset*

-) Approved
-) Vetoed
-) Emergency

DATE: *[Signature]* NOV 19 1990

County Executive

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