

TITLE 8  
CHAPTER 5

**REIMBURSEMENT DISTRICTS**

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**8-5-1: PURPOSE:** The purpose of this Chapter is to provide the process and means by which a person who is required to make certain public improvements to serve their property may recover a portion of the cost of such improvements when the improvements benefit, within a specified time period, other properties.

**8-5-1-1: DEFINITIONS:** As used in this Chapter, except where the context clearly indicates a different meaning, the following words and phrases shall have the meanings ascribed to them by this subsection:

APPLICANT	A person who submits an application to the City for establishment of a reimbursement district. The "applicant" may be the City.
CITY RECORDER	The person designated by the City Manager to perform the functions described.
FINANCE DIRECTOR	The person designated by the City Manager to perform the functions described.
PERSON	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.
PUBLIC IMPROVEMENT	An improvement, including, but not limited to, sewer, storm water, street, water, parks, and sites for parks, fire protection facilities and schools, that conforms to City standards and adopted plans.
PUBLIC WORKS DIRECTOR	The person designated by the City Manager to perform the functions described.
REIMBURSEMENT DISTRICT	The area that is determined by the City Council to derive a benefit from, and will have an opportunity to utilize, the construction of a street, water, sewer, storm water, or other

	public improvement, financed in whole or in part by the applicant.
REIMBURSEMENT FEE	The fee required to be paid, as established by a resolution of the City Council and the reimbursement agreement.
SEWER IMPROVEMENT	A sewer or sewer main improvement conforming with City standards and including but not limited to extending a sewer main to property, other than property owned by the applicant, so that sewer service can be provided for such property without further extension of the main.
STORM WATER IMPROVEMENT	A storm water facility, not constructed as part of a street improvement, conforming to City standards.
STREET IMPROVEMENT	A street or street improvement conforming with City standards and including but not limited to streets, surface water drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.
WATER IMPROVEMENT	A water or water main improvement conforming to City standards and including but not limited to extending a water main 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 main.

**8-5-1-2: APPLICATION FOR A REIMBURSEMENT DISTRICT:**

- A. Any person who chooses to finance some or all of the cost of a public, street, water, sewer or storm water improvement that could serve property other than property owned by the person making the improvement, may request that the City establish a reimbursement district. The request must be made by written application filed with the Public Works Director. The City may also initiate formation of a reimbursement district.
- B. A public, street, water, sewer or storm water improvement is eligible for a reimbursement district if the improvement is in addition to, or in a size greater than, that which would otherwise be required by permit approval. Also, the improvement must be available to provide service to property other than property owned by the applicant. Examples include, but not limited to, full street improvement instead of half street improvements, off-site sidewalks, connection of street section for continuity, extension of water mains and extension of sewer mains, parks, and sites for fire stations or schools.
- C. The application shall include the following:
  - 1. A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.
  - 2. 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.
  - 3. The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the Public Works Director.
  - 4. The estimated date of completion of the public improvements.
  - 5. The fee, established by resolution, sufficient to cover the cost of administrative review and notice.

- D. Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 8-5-1-13.

**8-5-1-3: PUBLIC WORKS DIRECTOR'S REPORT:**

The Public Works director shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Public Works Director may require the applicant submit additional information to assist in the evaluation.

- A. The Public Works Director shall prepare a written report for the City Council that includes the following information:
1. A description of the proposed improvement and evaluation of the improvements likely benefit to properties owned by persons other than the applicant.
  2. Whether the applicant will finance some or all of the proposed improvements;
  3. The area to be included in the reimbursement district.
  4. The estimated cost of the improvement within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;
  5. 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 for determining the amount of the reimbursement fee shall be based on the special and peculiar benefits accruing to the parcel from the improvement and may 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 Public Works Director. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related improvement in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);
- B. After considering the report furnished under A above, the Council may:
1. Direct that a public hearing be held on the proposed reimbursement district consistent with the Public Works Director's report and direct that notice of the hearing be given as provided in 8-5-1-4;
  2. Modify the Public Works Director's report and then direct that a public hearing be held on the proposed reimbursement district consistent with the Public Works Director's report as modified and direct that notice of the hearing be given as provided in 8-5-1-4;
  3. Require additional information about the proposed reimbursement district; or
  4. Decide not to make the proposed reimbursement district.

**8-5-1-4: NOTICE OF HEARING:**

- A. When directed by the City Council the City Recorder shall cause notice of the proposed reimbursement district and the public hearing to be given by one publication not less than (10) days prior to the public hearing in a newspaper of general circulation within the City and by mailing copies of the notice by first class, postage pre-paid mail to the owner of each lot affected by the proposed reimbursement district.

B. The notice shall contain:

1. A general description of the proposed reimbursement district and proposed improvements. The description need not be by metes and bounds but shall be such that an average person can determine from it the general location of the property.
2. An estimate of the total cost of the improvement, the portion anticipated to be reimbursed to the applicant by the proposed district, and the methodology and any alternate methodologies proposed for determining the method for reimbursement.
3. The time and place of the public hearing.
4. A statement regarding where additional information concerning the proposed reimbursement district is available to the public.
5. Any other information the Council may direct to be included.

**8-5-1-5: HEARING:**

- A. At the time of the public hearing, the City Council shall hear and consider testimony, both oral and written, on the proposed reimbursement district.
- B. After close of the public hearing the Council may, in its discretion, order the reimbursement district to be created. If the Council determines formation of the reimbursement district in the best interests of the City, the Council may form the reimbursement district even if affected property owners object to the proposed district.

If the Council elects to create the reimbursement district, it shall, within ninety (90) days after the date of the creation, adopt a resolution establishing the reimbursement district and the methodology to be used when determining the amount of reimbursements.

- C. At the public hearing the Council may modify the proposed reimbursement district by revising the scope of improvements, reducing or enlarging the boundaries of the district, or making other modifications as it finds reasonable. If the Council modifies the scope of the proposed reimbursement so that the reimbursement apportioned to one or more lots is substantially increased, if the Council enlarges the boundaries of the proposed district, or if the Council substantially changes the proposed reimbursement as it was set forth in the notice, it shall hold a public hearing on the revised proposed reimbursement district and shall notify affected property owners. Notification shall comply with 8-5-1-4-B. No publication shall be required. Instead of closing the public hearing and taking action, the Council may continue the hearing to a later date.

**8-5-1-6: RESOLUTION; AGREEMENT**

- A. If the Council elects to create a reimbursement district the resolution referred to in 8-5-1-5-B shall incorporate the Public Works Director's report as approved or modified.

If the applicant is not the City, the resolution shall instruct the City Manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

1. The public improvement(s) must meet all applicable City standards.
2. The estimated total amount of reimbursement to the applicant.
3. 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.

4. The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.
5. Other provisions as the City Council determines necessary and proper to carry out the provisions of this Chapter.

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.

The City Council resolution shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee. The methodology shall consider the cost of reimbursement to the applicant for financing the construction of park, street, water, sewer or storm water improvement(s), or dedication of property for parks, fire station or school sites, within the reimbursement district.

A reimbursement fee shall be computed by the City for all properties within the boundaries of the reimbursement district, 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 fee computed for the property of the applicant except for property dedicated for park, fire station or school sites.

**8-5-1-7: REIMBURSEMENT TO THE APPLICANT:**

- A. The cost to be reimbursed to the applicant, if other than the City, shall be limited to the cost of construction, engineering, acquiring off-site-rights of way, and proportionate share of the value of property dedicated for park, fire station or school sites. If the applicant is the City, the costs to be reimbursed shall also include an administration cost and all costs associated with the acquisition of easements and rights of way. Engineering shall include surveying and inspection and shall not exceed 15% of eligible construction costs. If the applicant is other than the City, the costs to be reimbursed for rights of way shall be limited to the reasonable market value of land or easements purchased from a third party to complete off-site improvements.
- B. No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs that are eligible for system development charge credits, or any costs that cannot be clearly documented.
- C. No reimbursement shall be allowed for construction costs that occur prior to the formation of the reimbursement district.

**8-5-1-8: 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 is obligated to pay the reimbursement fee, and the amount of the fee.

**8-5-1-9: 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 Assessor so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

**8-5-1-10: 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 adoption of a resolution establishing a reimbursement district.

**8-5-1-11: COMPLETION; PUBLIC HEARING:**

- A. Within three (3) month after completion, and acceptance of the improvements by the City, the applicant shall submit to the Public Works Director the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. The Public Works Director shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under Section 8-5-1-3. The final cost shall not exceed by more than 10% the cost estimated at the time the reimbursement district was authorized by the City Council unless an exception is approved by the City Council. An exception may be approved only if the applicant can show legitimate circumstances beyond the control of the applicant which cause the cost increase.
- B. After considering the report furnished in A above the Council may:
  - 1. Direct that a public hearing be held on the completed improvements in the reimbursement district consistent with the Public Works Director's report and direct that notice, consistent with the requirements of Section 8-5-1-4, of the hearing be given, for the final project reimbursement schedule.
  - 2. Modify the Public Works Director's report and then direct that a public hearing be held on the completed improvements in the reimbursement district, and direct that notice, consistent with the requirements of Section 8-5-1-4, of the hearing be given, for the final reimbursement schedule.
- C. Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to Section 8-5-1-6. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the City Council shall have the authority to approve, rescind, or modify the reimbursement district.

**8-5-1-12: OBLIGATION TO PAY REIMBURSEMENT FEE:**

- A. If a person with property located within a reimbursement district receives approval of any of the activities delineated below (within the time specified in the reimbursement resolution), the person shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council.
  - 1. A building permit for a new building;
  - 2. Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value within any 12-month period. The value of the building shall be the amount shown on the most current records of the Lane County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;
  - 3. Any change in use of the property which would cause an increase in activity to or on the property exceeding twenty-five percent (25%), as determined by standards established under Florence City Code.
  - 4. Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under Florence City Code at the time of permit application;
  - 5. Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;
  - 6. Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;
  - 7. Connection to or use of a street improvement, if the reimbursement district is based on

the street improvement;

8. Connection to or use of a storm water improvement, if the reimbursement district is based on the storm water improvement.
- B. The City's determination of who shall pay the reimbursement fee is final.
  - C. A person applying for a permit whose property is within a reimbursement district receives a benefit from the construction of street improvement, 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.
  - D. 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 Subsection 8-5-1-12-A unless the reimbursement fee has been paid in full. Where approval is given as specified in Subsection 8-5-1-12-A, but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.
  - E. The right of reimbursement shall not extend beyond fifteen years from the district formation date. The right of reimbursement may be less than fifteen years, but only if the shorter time period is explicitly set forth in the resolution and the agreement.

**8-5-1-13: REIMBURSEMENT FEE ADJUSTMENT:**

The City Council may include in the resolution creating the reimbursement district a requirement for an adjustment in the reimbursement fee at the time the reimbursement fee is paid. The reimbursement fee adjustment shall be based upon the Engineering News Record (ENR) 20-City Composite Construction Cost Index (CCI), and shall be the difference between the ENR CCI for the month in which the reimbursement district is approved, and the ENR CCI for the month in which any of the actions in Section 8-5-1-12 are approved and which require payment of the reimbursement fee. The reimbursement fee as adjusted herein shall be the reimbursement fee as provided for in this chapter.

**8-5-1-14: ADMINISTRATION:**

- A. 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.
- B. The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.
- C. The reimbursement fee is in lieu of a local improvement district charge for the improvement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the City.
- D. The amount of the City's charge for administering the district shall be fixed by the City Council and will be included in the Resolution approving and forming the reimbursement district. If the applicant is other than the City, the administration fee is due and payable to the City at the time the agreement in 8-5-1-6 is signed. If the City is the applicant, the administration fee shall be included in the reimbursement fee and is due and payable at the time there is an obligation to pay the reimbursement fee as required by 8-5-1-11.

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