

# Assessment Reimbursement or Latecomer Agreements

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# What is a Latecomer Agreement?

- Latecomer Agreements allow a property owner who has installed street or utility improvements to recover a portion of the costs of those improvements from other property owners who later develop property in the vicinity and use the improvements.
- Latecomer Agreements are also referred to as recovery contracts, reimbursement agreements, or assessment reimbursement contracts.



# How do they Work?

- Set forth a process where a neighboring property that benefits from the utility installation by connecting to it will have to pay its fair share of the installation costs of that utility.
- The Latecomer Agreement is a means to be more equitable to the 'first-in' developer, and includes an equitable cost structure for any benefitting parcel that connects to the new utility improvements.
- It is not an extra cost to the benefitting parcel, instead, it is a cost sharing mechanism to build the utility infrastructure that the parcel connects to.
- In this way, the 'first-in' developer doesn't subsidize these benefitting parcels which connect to the utility in the next 20 years.



# Ordinance Required

- Courts have held that a prerequisite to the latecomer agreement process is having in place an ordinance that requires the particular street improvements as a condition of property development. *Woodcreek Partnerships. v. City of Puyallup*, 69 Wn. App. 1 (1993).



# Street Latecomers

- These agreements are optional but if done the following statutory procedures must be followed per Chapter 35.72 RCW:
  - The assessment reimbursement area must be based upon which parcels adjacent to the improvements would require similar street improvements upon development.
  - The City must send, by certified mail, a preliminary determination of area boundaries and assessments, along with a description of the property owners' rights and options.
  - If within 20 days of the mailing of the preliminary determination any property owner requests a hearing the city must hold a hearing, with notice to all affected property owners.
  - The legislative body's ruling is final.
  - The contract must be recorded in the appropriate county auditor's office within 30 days of its final execution.
  - The filed contract is binding on property owners within the assessment area who are not party to the contract for 20 years with potential extensions.



# Utility Latecomers

- Chapter 35.91 RCW requires that a City must enter into a latecomer agreement for the construction of water or sewer facilities upon request, if a municipality's ordinances require the facilities to be improved or constructed as a prerequisite to further property development.
- Construction of water and sewer facilities includes: storm, sanitary, or combination sewers, pumping stations, and disposal plants, water mains, hydrants, reservoirs, or appurtenances.
- Must meet all of the conditions set out by statutes which includes being built to city specifications and receiving all city approvals and inspections, and security to guarantee completion of the facilities.
- Other requirements for street latecomers such as recording and 20 year length apply



# City Can Participate

- A city may participate with a developer and receive its pro-rate share of reimbursements the same as the developer.



# City Can Create a Reimbursement Area

- RCW 35-72.050 (Streets) and RCW 35.91.060 (Utilities) allow a City to create an assessment reimbursement area on its own initiative, finance all of the costs, and become the sole beneficiary of reimbursements.





# Ordinance 851

- Authorizes and sets out procedures for applications and the processing of street and utility latecomer agreements.
- Leaves discretion to enter into street latecomer agreements.
- Authorizes Public Works Director to adopt rules to implement.
- Provides that any requested hearing be to the hearing before the hearing examiner and follow the Hearing Examiner Rules of Procedures as adopted pursuant to Chapter 2.15 SMC.



# Ordinance 851

- Hearing Examiner forwards his or her report and recommendation to the City Council.
- Process allows for public comment to the Council. Council may also add to the record if a majority of the Council finds the record before the hearing examiner was insufficient.
- The Council makes the final decision on the reimbursement area and amount for each parcel.
- If no hearing is requested, determination of the Public Works Director is final.



# Next Steps

- No action is required from the City Council tonight only discussion of Ordinance No. 851.
- Currently scheduled for adoption on October 14, 2019, contingent on Council's direction.

