

# **ZONE OF BENEFIT RECOVERY CHARGE FOR PUBLIC IMPROVEMENTS**

## **Application Processing Guide** (Revised December, 2016)

## **Introduction**

The City of Corvallis requires developers to construct public water, sanitary sewer, storm drainage, and street improvements necessary to serve proposed developments. Often this public infrastructure, particularly those constructed off-site, can and will benefit other property owners. Under City of Corvallis Municipal Code Chapter 2.16, any person who is required by the City, as a condition of development, to construct public improvements that will provide special benefit to other properties, may request that the City establish a zone of benefit recovery charge. Properties within a City Council approved zone of benefit share in the cost of those improvements at the time the benefitted property connects to the utility or transportation facility or develops in a manner that would otherwise require the improvements.

## **Application**

A written request to form a zone of benefit must be received by the City Engineer within one year of the City's acceptance of the improvements. An application fee must be submitted with the written request in the amount of 3% of the total construction cost of public improvements for which a recovery charge is being sought. However, the application fee will not be less than \$1,000 nor more than \$5,000.

In addition, supporting documentation must be submitted with the application as described below:

- Detailed plans showing the actual location, nature, and extent of all improvements for which a zone of benefit recovery charge is sought. As-built plans are preferred if available at the time of application.
- A list of parcels proposed for inclusion in the zone of benefit as well as miscellaneous property information consistent with the form provided in Attachment "A". Copies of the County Assessor's maps should be submitted with this attachment. Owner names and addresses will be as identified by the County Assessor's most recent property tax assessment rolls. For purposes of identifying properties within a zone of benefit, it is important to note that with the exception of traffic signals, street improvement costs will only be recoverable from parcels fronting the improvement.
- A detailed breakdown of actual engineering, construction, and administrative costs for each element of the reimbursement request (i.e. water, sewer, storm, streets) including the submittal of invoices and verification that project costs have either been paid or financed. If the timing of the application is such that actual costs are not available, a preliminary cost breakdown based on a detailed engineering estimate and/or bid tabulation will be acceptable. However, actual cost data must be received and verified prior to sending a resolution to the City Council to approve the zone of benefit. Applications should provide this information in a format consistent with the worksheet in Attachment "B". The following is a list of restrictions on costs eligible for inclusion in recovery charge calculations:
  - The zone of benefit application fee is not eligible for recovery.
  - The total of survey, engineering, construction management, and administrative costs may not exceed 15% of eligible construction costs.
  - The total of legal and financial costs may not exceed 3% of eligible construction costs.
  - No profit or overhead markup of costs will be allowed by the applicant.
  - No recovery for the value of real property which the applicant was required to dedicate or reserve for public use as a condition of development is allowed.
  - No reimbursement will be allowed for those elements of construction which are eligible for a Systems Development Charge (SDC) reimbursement or for any other development or connection

fee for the same improvement.

- No reimbursement will be allowed for the cost of extending improvements serving a development to the edge of that development when those improvements are wholly contained within the boundaries of the development.
- No reimbursement is allowed for electrical, cable television, natural gas, or telephone utility relocation.

### **Application Review and Approval**

**Step 1:** Upon receipt of a zone of benefit application, the City Engineer will notify owners of parcels within the requested zone of benefit that the application has been filed. This notice will invite affected property owners to submit comments concerning their inclusion in the proposed zone of benefit. Property owners will have 14 calendar days in which to respond.

**Step 2:** The City Engineer will conduct a review of the application and may modify the proposed zone of benefit or recovery charge or both. Any additional properties added to the zone of benefit must be noticed as described in Step 1. Once a final decision has been reached regarding the zone of benefit and the recovery charge, the applicant and affected property owners shall be notified in writing of the estimated charge and given the opportunity to appeal the decision. Property owners will have 14 calendar days in which to respond. Appeals will be heard by the City Council. This step may be eliminated with applicant/property owner notice and opportunity to appeal undertaken in Step 3 if the timing of the application is such that actual project costs are available with the application.

**Step 3:** Upon the City's acceptance of public improvements, the City Engineer will use the approved as-built drawings, together with the construction contract documents and detailed final invoices to adjust the estimated recovery charge to reflect the applicant's actual incurred costs. The City Engineer will notify all affected property owners of the recovery charge that has been apportioned to their property. If the timing of the application is such that Step 2 was not undertaken, property owners will have 14 calendar days in which to appeal the City Engineer's decision. Appeals will be heard by the City Council.

**Step 4:** The City Engineer will forward the recovery charge recommendation, including an analysis of any appeals, to City Council for review and approval. With City Council approval, a Notice of Municipal Interest will be recorded against each property within the zone of benefit in order to put subsequent property owners on notice. The format of the notice will be as illustrated in Attachment "C", will include a copy of the City Council's resolution establishing the zone of benefit, and will be recorded at the applicant's expense with the Benton County Assessor's Office.

The initial approval is good for 10-years, but can be extended indefinitely by the applicant in 5-year increments provided that the extension is applied for in advance and acknowledged by the City Engineer 60 days prior to the expiration of the current approval. The cost for each 5-year extension is \$500.

### **Recovery Charge Collection**

Recovery charges can only be collected after completion and acceptance by the City of the public infrastructure for which the zone of benefit has been formed. The recovery charges established under Municipal Code Chapter 2.16 are intended to become due and payable by the benefitted property upon connection to the public facility or development of that property which would otherwise have had to construct the improvements under provisions in the Land Development Code.

The City will collect recovery charges in conjunction with connection or development permits and pass them on

to the zone of benefit applicant. These charges will be paid by cashier's check made out to the zone of benefit applicant and will be adjusted for inflation based on the Engineering News Record construction cost index.

The following restrictions are placed on the collection of reimbursement fees:

- Unless otherwise directed by the City Council, the obligation to pay the recovery charge will not apply to parcels or portions of parcels which are developed by the City for public purposes; i.e., parks, fire stations, or similar community service facilities. If such a parcel is included in a zone of benefit and that parcel is subsequently sold, then the purchaser of the parcel will assume the recovery charge.
- Improvements which are required to comply with existing State or local health, sanitary, or safety regulations, or any alterations to structures listed on the National Register of Historic Places are exempted from payback agreements.
- Properties requiring service to resolve failed on-site systems would be obligated to pay for the failed utility portion of the payback upon connection to the utility, but would be exempt from the remaining payback until further development.

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