

ORDINANCE NO. 918

AN ORDINANCE OF THE CITY OF RIDGEFIELD, WASHINGTON, ADDING A NEW CHAPTER 3.90 TO THE RIDGEFIELD MUNICIPAL CODE, RELATING TO LATECOMER AGREEMENTS.

WHEREAS, State law provides the City Council with discretionary power to grant latecomer agreements to developers and/or owners of property for the reimbursement of a pro rata portion of the original cost of water system, sanitary sewer systems, storm water drainage systems and street improvements including signalization and lighting; and,

WHEREAS, the City Council of the City of Ridgefield finds it in the best interest of the City and its citizens to establish a regular procedure for establishing latecomer agreements; and,

WHEREAS, the City Council conducted a public work-session on to discuss Latecomer Agreements on February 16, 2006; and,

WHEREAS, the City Council desires to establish Chapter 3.90 (Latecomer Agreements) within Title 3 (Revenue and Finance) of the Ridgefield Municipal Code to establish and manage the reimbursement effort between connecting parties and the original parties that constructed the improvements; and,

WHEREAS, the Ridgefield City Council conducted a public hearing on March 23, 2006; and,

WHEREAS, the first reading of the ordinance was conducted during the City Council's March 23, 2006 regular meeting and the second reading of the ordinance was conducted during the City Council's April 13, 2006 regular meeting.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIDGEFIELD, WASHINGTON HEREBY ORDAINS AS FOLLOWS:

Section 1. Public Interest. The Ridgefield City Council finds it is in the public interest to grant latecomer agreements to developers and/or owners for the reimbursement of a pro rata portion of the original cost of water system, sanitary sewer systems, storm water drainage systems and street improvements including signalization and lighting, and establish Chapter 3.90 (Latecomer Agreements) of the Ridgefield Municipal Code.

Section 2. Establishment of Chapter 3.90 (Latecomer Agreements) of the Ridgefield Municipal Code. Chapter 3.90 (Latecomer Agreements) of the Ridgefield Municipal Code is hereby established pursuant to the attached Exhibit "A".

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective date. This ordinance shall be in full force and effect five (5) calendar days after adoption and publication pursuant to law.

Passed by the City Council of the City of Ridgefield, Washington this _____ day of _____, 2006.

By: _____
Gladys Doriot, Mayor

ATTEST/AUTHENTICATED:

Kay Kammer, City Clerk

First Reading: _____
Second Reading: _____
Date of Publication: _____
Effective Date: _____

CHAPTER 3.90 LATECOMER'S AGREEMENTS

SECTIONS:

- 3.90.010 Authority
- 3.90.020 Application
- 3.90.030 Preliminary Notice of Latecomer's Agreement and Appeal Rights
- 3.90.040 Preliminary Approval
- 3.90.050 Final Latecomer's Agreement
- 3.90.060 Execution, Recording and Notice
- 3.90.070 Contract Finality
- 3.90.080 Title to Improvement and Assignment of Benefit
- 3.90.090 Tender of Fee
- 3.90.100 Release of Assessment
- 3.90.110 Term of Life
- 3.90.120 Fees
- 3.90.130 Limits on City Responsibility
- 3.90.140 Improvements Constructed By Developer
- 3.90.150 Interest

3.90.010 AUTHORITY

The City has the discretionary power to grant latecomers agreements to developers and owners for the reimbursement of a pro rata portion of the original costs of public water systems, public sanitary sewer systems, public storm water drainage systems and public street improvements including signalization and lighting. The authority to approve a latecomer's agreement shall be vested in the City Council.

3.90.020 APPLICATION

Application for a latecomer's agreement shall be made thirty (30) days prior to issuance of an Engineering permit. Application shall be by letter to the City Council requesting a latecomer's agreement, or upon city prepared forms. Any application for a latecomer's agreement shall contain the following information:

- A. Legal description of applicant's property; and
- B. Legal description of the benefited properties; and
- C. Vicinity maps of applicant's property, benefiting properties and the location of the improvement; and
- D. Estimated cost data and inventory for the improvements, including interest resulting from financing by an accredited financial institution prepared by a registered Engineer; and,
- E. Proposed pro rata share of the cost of the improvement to be borne by the benefiting properties, and a proposed method of assessment of that pro rata share to the individual benefiting properties; and,
- F. Payment of full amount of nonrefundable processing fee of \$1,000.00.

3.90.030 PRELIMINARY NOTICE OF LATECOMERS AGREEMENT AND APPEAL RIGHTS

The Community Development Director, or designee in consultation with the Public Works Director, or designee shall determine the preliminary latecomer's area boundaries and draft the legal description of the latecomer's boundary and a preliminary latecomer's boundary map. The City Clerk shall mail notice by Certified mail to all owners of record of property within the latecomer's boundary and to the developer. The notice shall include an approximation of the preliminary assessment, the proposed latecomer's boundary map and the description of the property owners' rights and options to participate in the latecomer's agreement. This preliminary notice form will not be recorded with Clark County. The property owners may, upon payment of the \$250.00 appeal fee, request an appeal hearing before the City Council within twenty (20) calendar days of the mailing. The appeal shall adhere to the criteria established under Section 390.050.C of this Chapter but shall be limited to the issue of whether or not a specific property should be included in the latecomers area. The City Council, by ordinance or voice vote, may delegate the Hearing Examiner or other hearing officer to hold the requisite public hearing and establish a record, together with a recommendation for the City Council. The City Council's ruling shall be determinative and final.

3.90.040 PRELIMINARY APPROVAL

A. The City Council may grant preliminary approval for a latecomer's agreement based upon the information contained in the request for a latecomer's agreement and any input from the Community Development Director or Public Works Director, or the City Council may request further information from the applicant and/or the City Manager, or the City Council may deny the preliminary latecomers agreement. As part of any preliminary approval, the Council shall indicate the duration for which the latecomers agreement will be approved, after completion of the improvements, which approval period shall not be more than fifteen (15) years pursuant to Subsection 3.90.110.

B. Following preliminary approval by the City Council, the holder of the latecomer's agreement shall submit to the City Clerk any further information requested by the City.

3.90.050 FINAL LATECOMERS AGREEMENT

A. Preparation of Proposed Final Assessment Roll

Following construction, the Community Development Department in consultation with the Public Works Department shall prepare a final proposed latecomers agreement which will include a legal description and a map of the latecomer's boundary. The cost of the improvements shall be spread among the property owners based upon their pro rata share of said costs. The costs will become payable upon authorization of utility connection and/or building permit authorizing the benefiting property owner(s) to construct improvements that would allow the user(s) property to derive direct benefit from these facilities. The method of assessment to be used shall be one or more of the following methods, unless otherwise approved or directed by the City Council:

1. Front foot method.
2. Zone front foot method.
3. Square footage method.
4. Trip generation (traffic) method.
5. Other equitable method, as determined by the City.
6. Any combination of the above methods.

The method(s) used and the dollar amount(s) will be included in the final latecomer's agreement.

B. Final Notice of Latecomers Agreement

Following Council receipt and approval of the final latecomer's agreement, the City Clerk shall send notice by Certified mail to all owners of record of property within the latecomer's boundary and to the developer or holder of the latecomer's agreement. The notice shall include the final assessment per unit charge, the legal description and a map of the latecomer's boundaries, and the description of the property owners' appeal rights and/or option to participate in the latecomer's agreement.

C. Appeal

1. Within twenty (20) calendar days of the date of the mailing, any property owner shall submit an appeal in writing to the City Council. Said appeal shall be submitted to the City Clerk. An appeal must include a statement of claimed errors concerning the proposed assessment, and must be accompanied by the nonrefundable appeal fee. Errors which are not set forth in writing and which do not adhere to the criteria listed below will not be considered.
2. Objections by a benefiting property owner to the recording of a potential assessment against their property do not constitute a valid appeal.
3. Claimed errors identified in an appeal must be related to cost, methodology for cost distribution, or benefit to the property as described below:
 - a. Cost: If the benefiting property owner contests these costs, he or she shall provide a basis for the claimed discrepancy, such as an estimate from a contractor or other reliable source.
 - b. Costs Methodology: If the benefiting property owner contests the cost methodology used shall show why it is not equitable and shall provide their suggested alternate method of assessment and the justification for its use in place of the staff recommended method.

c. Benefit: If a benefiting property owner contests benefit, he or she shall provide a statement or documentation on why a particular parcel has no future potential benefit.

4. Upon receipt of an appeal and the required fee, the City Clerk shall transmit the appeal and the official file to the City Council. The City Council may delegate to the Hearing Examiner the responsibility to hold a public hearing, establish the record and provide a written report containing a recommendation to the City Council. Following the public hearing, the Hearing Examiner shall issue a written recommendation which is mailed to parties of record.

D. Council Action

If no appeal is filed, the City Council's initial approval shall grant the latecomers agreement and authorize the developer, Mayor and City Clerk to sign the document. If an appeal is filed, and if delegated to the Hearing Examiner for a hearing and the Council concurs with specific recommendations made by the Hearing Examiner as a result of the public hearing, these recommendations shall be incorporated into the latecomers agreement. Following City Council approval, alteration or denial of the Hearing Examiner's recommendation on the appeal, the Council shall the latecomer's agreement and authorizes the developer, Mayor and City Clerk to sign the document.

3.90.060 EXECUTION, RECORDING AND NOTICE

The latecomer's agreement shall be mailed to the holder of the latecomer's agreement by the City Clerk and must be signed, notarized and returned within sixty (60) calendar days of the date of Council approval for execution by the City Manager. If not consummated within the sixty (60) calendar day period, the latecomer's agreement shall be null and void. The City Council can give consideration to extending this period by a showing of hardship or excusable neglect on the part of the holder of the latecomer's agreement inclusive of all associated documents, maps, and plans. The fully executed latecomer's agreement shall be recorded by the holder of the latecomer's agreement at the Clark County Auditor's Office.

3.90.070 CONTRACT FINALITY

Once the latecomer's agreement together with a legal description and a map of the latecomer's boundary are recorded with the County, it shall be binding on owners of record within the assessment area. A copy of the recorded and executed agreement shall be transmitted to the City Clerk within seven (7) calendar days of recording. Following receipt of the recorded latecomer's agreement, the City Clerk shall mail a copy of the recorded agreement to the holder of the latecomer's agreement.

3.90.080 TITLE TO IMPROVEMENT AND ASSIGNMENT OF BENEFIT

Before the City will collect any latecomer's fee, the holder of the latecomer's agreement shall transfer title to all of the improvements under the latecomer's agreement to the City. The holder of the latecomer's agreement shall also assign to the City the benefit and right to the latecomer's fee should the City be unable to locate the holder of the latecomer's agreement to tender any latecomer's fee that the City has received. The holder of the latecomer's agreement shall be responsible for keeping the City informed of their correct and current mailing address. Should the City be unable to locate the holder of the latecomer's agreement in order to deliver a latecomer's fee, the City shall undertake an independent investigation to determine the location of the holder of the latecomer's agreement. Should the City, after a good faith attempt to locate the holder of the latecomer's agreement, be unable to do so, the latecomer's fee shall be placed in the Special Deposit Fund held by the City for two (2) years. At any time within the two (2) year period the holder of the latecomer's agreement may receive the latecomer's fee, without interest, by applying to the City for that latecomer's fee. After the expiration of the two (2) year period, all rights of the holder of the latecomer's agreement to that fee shall expire, and the City shall be deemed to be the owner of those funds.

3.90.090 TENDER OF FEE

When the City has received the funds for a latecomer's fee, it shall forward that fee, if possible, to the current holder of the latecomer's agreement at the current address of the holder of the latecomer's agreement that is on file with the City, within thirty (30) calendar days of receipt of the funds. It is the responsibility of the holder of the latecomer's agreement to keep his/her addresses current with the City. Funds received by negotiable instrument, such as a check, will be deemed received ten (10) calendar days after delivery to the City. Each Latecomer's Agreement contract shall include a provision requiring that every two years from the date the contract is executed a property owner entitled to reimbursement under this Chapter provide the City with information regarding the current contract name, address, and telephone number of the person, company, or partnership that originally entered into the contract. If the property owner fails to comply with the notification requirements of this subsection within sixty days of the specified time, then the City may collect any reimbursement funds owed to the property owner under the contract. Such funds shall be deposited in the capital fund of the City.

3.90.100 RELEASE OF ASSESSMENT

When funds are received for a latecomer's fee, the City will post said payment on the City's assessment data base for the real property owned by the party paying the latecomer's fee, within thirty (30) calendar days of receipt of the funds. An individual certificate of payment shall not be recorded with Clark County. The City shall record a certificate of payment and release of assessment for the entire latecomer's area when all the property owners have paid their assessment or upon expiration of the term of life of the latecomer agreement.

3.90.110 TERM OF LIFE

When authorized by the City Council, a latecomer's agreement may be granted for a period of up to but not to exceed fifteen (15) years. The contract may provide for an extension of the fifteen-year reimbursement period for a time not to exceed the duration of any moratorium, phasing ordinance, concurrency designation, or other governmental action that prevents making applications for, or the approval of, any new development within the benefit area for a period of six months or more. Upon the extension of the reimbursement period pursuant to of this subsection, the contract must specify the duration of the contract extension and must be filed and recorded with the Clark County Auditor. Property owners who are subject to the reimbursement obligations under subsection of this section shall be notified by the City, of the extension filed under this subsection. The latecomer's agreement will expire at the end of the period of time established by the City Council.

3.90.120 FEES

A benefiting property owner shall pay to the City a \$125.00 non-refundable latecomer's agreement processing fee.

3.90.130 LIMITS ON CITY RESPONSIBILITY

The final latecomer's agreement recorded with the Clark County Auditor's Office will be a matter of public record and will serve as notice to current and future owners, as well as to the City, of the potential assessment should a connection to the improvements be made. In addition to the City, the holder of the latecomer's agreement has responsibility to monitor those parties connecting to the improvement to ensure benefiting property owners will pay their pro rata cost. Should the City become aware of such a connection, it will use its best efforts to collect the latecomer's fee. Should the City fail to forward the latecomer's fee to the holder of the latecomer's agreement through the City's sole negligence, then the City shall pay the holder of the latecomer's agreement simple interest on those monies at the rate of six (6%) percent per annum.

3.90.140 IMPROVEMENTS CONSTRUCTED BY DEVELOPER

Improvements shall be installed by developer per approved plans following issuance of the construction permit and payment of applicable permit and development fees. The notification and appeal process, established by this Chapter, may result in a decision by the City Council which would alter the potential payment to the beneficiary of the latecomer's agreement. If the beneficiary proceeds to construction prior to either the preliminary or City Council approval of the latecomer's agreement following all appeals, the beneficiary does so at the beneficiary's own risk.

3.90.150 INTEREST

No interest rates are added to fees collected by the City of Ridgefield under private developer or publicly held latecomer's agreement.

TITLE: LATECOMER AGREEMENTS

PROCEDURES:

1. Application on City forms for a latecomer's agreement must be submitted 30 days prior to issuance of engineering approval to the Community Development Director. The application shall include: (1) a legal description of the applicant's property; (2) legal description, parcel numbers and map designating benefiting properties; (3) an estimate of costs and inventory for the improvements including interest resulting from financing by an accredited financial institution prepared by a State of Washington registered Engineer; (4) payment of a nonrefundable \$1,000.00 application fee; (5) a proposal of the method of assessment and the pro rata share of the costs for improvement of the individual benefiting properties; and (6) a certified list of the latecomer's agreement boundary property owners with mailing labels from the Clark County Assessor's Office.
2. Initial eligibility of all projects for latecomer agreements shall be determined by the Public Works Director and the Community Development Director.
3. The eligibility of a project for a latecomer agreement, including review of the plans and cost estimates of the project under this policy will be determined within 30 working days of receipt of the proposal by the Public Works Director.
4. The Community Development Director is responsible for forwarding to the City Clerk the Preliminary Notice of the potential latecomer agreement, address labels, boundary map, date of the council meeting for council consideration and the appeal rights of the property owners.
5. Upon receipt of the documents outlined in Section 4., The City Clerk will mail within 5 business days to the properties within the proposed boundary by certified mail the notice, boundary map, city council meeting date and appeal rights.
6. City Council, at a regular meeting not later than 20 business days after mailing of the notice to potentially affected properties will consider approval of the Preliminary Latecomer Agreement and proposed boundary if no appeal is made.
7. Should the City Clerk receive an appeal, the Clerk will transmit to the City Council the appeal and official file. City Council at the next regular meeting will determine by voice vote or by ordinance whether or not to delegate the appeal hearing to the Hearings Examiner or to hear the appeal at a regular City Council meeting. (If no appeal is received, proceed to step 8.)
8. The Public Works Director will review and approve the final assessment.
9. The City Clerk will mail to the applicant the approved Latecomer Agreement. The agreement must be signed and notarized by the applicant within 60 calendar days of Council approval. If not consummated within 60 days, the agreement will be null and void.
10. The applicant is responsible for recording the agreement inclusive of all associated documents, maps, and plans with the Clark County Auditor. The applicant must provide a recorded copy of the agreement inclusive of all associated documents, maps, and plans to the City Clerk, Public Works Director and Community Development Director.
11. The applicant is responsible for ensuring that a Latecomer's Agreement note is placed on the face of the final plat.
12. The Community Development Director is responsible for providing a copy of the final plat to the Building Permit Specialist along with the assessment amount to be collected upon authorization of utility connection and/or building permit issuance.
13. The applicant must provide documentation of the actual final project costs and the recording documents with current participants to the Public Works Director prior to any reimbursements.
14. The Public Works Director is responsible for forwarding the approved final project documentation to the Finance Department.

15. The Community Development Department Director is responsible for checking title policies (title policy must be dated within last 30 days) on each land use application it receives to determine if the parcel has a lien or latecomer agreement attached.
16. The Building Permit Specialist is responsible for reviewing the final plat to determine conditions on the property at the time of building permit application and prior to issuance.
17. The Building Permit Specialist is responsible for forwarding to the Finance Department Manager notification of incoming payments towards a latecomer agreement. (Copy of receipt issued)
18. The Finance Department Manager will create a data base from the final project documentation. The documentation must include the applicant's name, phone number, address, effective date, total costs and the amount to be reimbursed and the pro rata share for each parcel within the boundary.
19. The Finance Department Manager will track reimbursements against costs.
20. Reimbursements will be mailed by the Finance Department Manager by first class mail to the current owners of the participating parcels within 30 working days of collection of connection or impact fees for a period of 15 years from final acceptance. It is the responsibility of the property owners to ensure that the Finance Department Manager has their mailing address at all times through the life of the agreement.
21. The applicant is responsible for recording the release upon receipt of payment.

NEED:

Application form - see RMC 3.90.020

Notice form to proposed benefiting properties – see RMC 3.90.030

Final notice form – see RMC 3.90.050(b)

Agreement form between City and Applicant



CITY OF RIDGEFIELD

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Ridgefield, WA 98642
Tel: (360) 887-3557
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www.ci.ridgefield.wa.us

LATECOMER'S AGREEMENT APPLICATION

PLEASE SELECT THE SPECIFIC TYPE OF LATECOMER'S AGREEMENT APPLICATION:

- SEWER
 WATER

- STORMWATER
 STREETS

State law provides the City Council with discretionary power to grant latecomer agreements to developers and/or owners for the reimbursement of a pro rata portion of the original cost of water systems, sanitary sewer systems, storm water drainage systems and street improvements including signalization and lighting. The City's primary role in the latecomer agreement process is to manage the reimbursement effort between benefiting parties and the original parties that constructed the improvements.

The City Council may grant preliminary approval for a latecomer's agreement as follows: 1) based upon the information contained in the request for a latecomer's agreement and any input from the Community Development Director or Public Works Director, 2) the City Council may request further information from the applicant and/or the City Manager, 3) the City Council may deny the preliminary latecomers agreement.

IF MORE THAN ONE APPLICANT, APPLICANT'S MUST DESIGNATE A SINGLE REPRESENTATIVE.

APPLICANT:

NAME: _____ COMPANY: _____

ADDRESS: _____

(CITY, STATE, ZIP) _____

PHONE: _____ E-MAIL: _____

REQUIRED SUBMITTAL REQUIREMENTS

CHECK IF SUBMITTED?	Number of submittal materials	LATECOMER' AGREEMENT SUBMITTAL REQUIREMENTS
	2	THIS Application Checklist
	2	Application Fee (\$1,000.00)
	2	Legal description of the applicant's property
	2	Legal description of the benefited properties
	2	Certified list of the Latecomer's Agreement boundary property owners with mailing labels from Clark County
	2	Vicinity maps of applicant's property, benefiting properties and the location and original design plans of the improvement
	2	Estimated cost data and inventory of the improvements, including interest resulting from financing by an accredited financial institution prepared by a registered Engineer
	2	Proposed pro rata share of the cost of the improvement to be borne by the benefiting properties, and a proposed method of assessment of that pro rata share to the individual benefiting properties.

OWNER/AGENT:

SIGNATURE: _____

DATE: _____