

ORDINANCE NO. 4792

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO CHAPTER 2.50 “DEVELOPER REIMBURSEMENT AGREEMENTS” AND AMENDING SECTIONS 2.50.020, 2.50.050 AND 2.50.190 OF THE ELLENSBURG CITY CODE.

WHEREAS, after reviewing state law, the city attorney confirmed that electric and natural gas utilities are not authorized to enter into developer reimbursement agreements; and

WHEREAS, the amendments in this ordinance were reviewed by the city’s Utility Advisory Committee at its February 15, 2018 meeting, which recommended adoption of the changes by the City Council;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

**Section 1.** Section 2.50.020 of the Ellensburg City Code, as last amended by Ordinance 4114, is hereby amended to read as follows:

**2.50.020 Purpose.**

The purpose of this developer reimbursement chapter is to define the rules and regulations for executing contracts between the city and developers for privately financed construction of municipal water, sewer, storm sewer, ~~electricity, natural gas~~, and street system improvements by providing a means for partial cost recovery from later users of the system(s) who did not contribute to the capital costs thereof and for establishing assessment reimbursement areas defining which property is subject to such charges. [Ord. 4114, 1997.]

**Section 2.** Section 2.50.050 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4644, is hereby amended to read as follows:

**2.50.050 Definitions.**

The following definitions shall apply to this chapter:

“Cost of construction” means those costs incurred for design, acquisition of right-of-way and/or easements, labor, materials and installation as required to create an improvement which complies with city standards.

“Developer reimbursement agreement” means a written contract between the city, as approved and executed by the city engineer, and one or more property owners, which provides for construction of municipal improvements and for partial reimbursement to the party causing such improvements to be made of a portion of the costs of such improvements by owners of property benefitted by the improvements, as authorized and described in Chapters 35.71 and 35.91 RCW.

“Developer reimbursement charge” or “assessment” means a fair pro rata charge to be paid by an owner of property within an area benefitted by the privately financed construction of municipal improvements pursuant to this chapter.

“Municipal improvements” for the purposes of this chapter means water, sewer, storm sewer, ~~electricity, natural gas~~, or street system improvements constructed in conjunction with a development which provide potential for service to properties not having participated in the original project cost.

“Reimbursement area” or “benefit area” means that area within the city’s urban growth area, which area includes parcels of real estate adjacent to, or likely to require connection to or service by, the water, sewer, storm sewer, ~~electricity, natural gas~~, or street system improvements constructed by a developer who has applied to the city for a developer reimbursement agreement pursuant to this chapter.

“Street system improvements or facilities” means the acquisition of right-of-way and/or easement, and the design, inspection, grading, paving, installation of curbs, gutters, sidewalks, street lighting, traffic control devices and other similar improvements in accordance with city standards.

“Utility system improvements” means the acquisition of right-of-way and/or easements, and the design, inspection and installation of improvements to city standards as per the following:

1. “Water system improvements” includes such things as reservoirs, wells, mains and appurtenances such as valves, fire hydrants, monitoring systems, pumping stations, and pressure reducing stations;
2. “Sewer system improvements” includes such things as treatment plants, mains and manholes, pump stations, force mains, and monitoring systems;
3. “Storm sewer system improvements” includes such things as mains, retention/detention facilities, pumping stations, inlets, catch basins, and manholes;
4. ~~“Electric system improvements” includes such things as cables, poles, conduits, service vaults, junction boxes, generators, and monitoring systems;~~
5. ~~“Natural gas system improvements” includes such things as distribution mains and services, meters and metering installations, valves, pressure regulators and regulator stations, pump stations, cathodic protection systems, and monitoring systems.~~ [Ord. 4644 § 1, 2013; Ord. 4114, 1997.]

**Section 3.** Section 2.50.190 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4629 is hereby amended to read as follows:

**2.50.190 Term of developer reimbursement agreements.**

No developer reimbursement agreement shall extend for a period longer than 20 years (~~nor longer than five years for natural gas system improvements~~) from the date of final acceptance by the city. [Ord. 4629 § 1, 2012; Ord. 4114, 1997.]

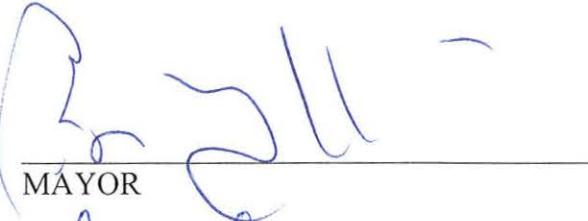
**Section 4. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

**Section 5. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 6. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 19 day of March, 2018.

ATTEST:

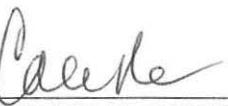
  
MAYOR  
  
CITY CLERK

Approved as to form:

  
CITY ATTORNEY

Publish: 3-22-18

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4792 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4792 was published as required by law.

  
COREEN M. RENO