

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1930

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, ADDING A NEW CHAPTER 13.15 TO THE FIFE MUNICIPAL CODE TITLED "WATER AND SEWER LATECOMER REIMBURSEMENT CONTRACTS" AND REPEALING CHAPTER 13.14 OF THE FIFE MUNICIPAL CODE

WHEREAS, the City of Fife's utility latecomer agreement ordinance was adopted in 1982 and codified in FMC Chapter 13.14; and

WHEREAS, the state law authorizing utility latecomer agreements is set forth in RCW chapter 35.91, which has been amended several times since 1982; and

WHEREAS, this ordinance repeals FMC Chapter 13.14 and adopts a new chapter 13.15 setting forth new processes and procedures for utility latecomer agreements in compliance with RCW chapter 35.91; now therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 13.15 is hereby added to the Fife Municipal Code, titled "Water and Sewer Latecomer Reimbursement Contracts."

Section 2. A new section 13.15.010 is hereby added to the Fife Municipal Code to read as follows:

13.15.010 Purpose.

The purpose of this chapter is to prescribe rules and regulations governing water and sewer latecomer contracts as prescribed by Chapter 35.91 RCW.

Section 3. A new section 13.15.020 is hereby added to the Fife Municipal Code to read as follows:

13.15.020 Definitions.

The definitions set forth in RCW 35.91.015 as presently enacted or as may be amended from time to time, are hereby adopted and incorporated by this reference, and applicable throughout this chapter unless the context clearly requires otherwise.

Section 4. A new section 13.15.030 is hereby added to the Fife Municipal Code to read as follows:

13.15.030 Water and sewer latecomer reimbursement contracts.

The city shall enter into a water and sewer latecomer reimbursement contract with an owner of real property, when the following conditions apply:

- (1) The owner elects to install certain water or sewer facilities solely at the owner's expense.
- (2) The owner has submitted a request for a latecomer reimbursement contract prior to the approval of the water or sewer facility by the municipality.
- (3) The reimbursement area is located where city ordinances require that the facilities be improved or constructed as a prerequisite to further property development.
- (4) The facilities are within the corporate limits or within 10 miles of the corporate limits.

Section 5. A new section 13.15.035 is hereby added to the Fife Municipal Code to read as follows:

13.15.035 Submittal of latecomer reimbursement request—Fees.

- (1) Application for a water and sewer latecomer reimbursement contract should be submitted to the city and approved by the city council prior to the approval of the construction plans for the proposed facility.
- (2) The application fee for a latecomer reimbursement contract is as set forth in the city's current fee schedule. The current fee schedule is available at Fife City Hall and at the city of Fife's website. In addition, all applicants will be required to pay for all actual costs of engineering, legal and other professional services performed by city staff or an independent contractor for the city for the processing and/or review of a latecomers reimbursement application, and preparation of the latecomers reimbursement contract, and for project inspection and compliance review. The hourly fee shall be the base salary or contract fee of the engineer or other professional, plus benefits and administrative costs and overhead.

Section 6. A new section 13.15.040 is hereby added to the Fife Municipal Code to read as follows:

13.15.040 Latecomer reimbursement contract to include conditions required in accordance with adopted city policies and standards.

The latecomer reimbursement contract must include conditions required by the city in accordance with its adopted policies and standards.

Section 7. A new section 13.15.050 is hereby added to the Fife Municipal Code to read as follows:

18.15.050 Consistency with comprehensive plan required.

The requirement for the city to enter a water or sewer latecomer contract under the preceding section shall only be applicable if the water or sewer facilities are consistent with all applicable comprehensive plans and development regulations of the city. Unless the city gives the owner written notice of its intent to request a comprehensive plan amendment, the owner must request and secure a comprehensive plan amendment for the water or sewer facility, if required.

Section 8. A new section 13.15.060 is hereby added to the Fife Municipal Code to read as follows:

18.15.060 Conditions of connection of the water or sewer facility to the municipal system.

Connection of the water or sewer facility to the municipal system under a water or sewer latecomer contract is subject to the following conditions:

- (1) The water or sewer facility has been constructed to plans and specifications approved by the city.
- (2) The water or sewer facilities have been inspected and approved by the city.
- (3) The water or sewer facilities have been transferred to the city by bill of sale, and appropriate easements for the water or sewer facilities have been conveyed to the city, without cost to the city, upon acceptance of the facilities by the city.
- (4) The owner has fully complied with all of the owner's obligations under the latecomer reimbursement contract and with the city's rules and regulations.

(5) The owner has provided sufficient security to the city to ensure completion of the water or sewer facility and other performance under the contract.

(6) The owner has paid the city all of its costs associated with the water or sewer facility, including, but not limited to, engineering, legal and administrative costs.

(7) The city has verified and approved all of the owner's contracts and costs related to the water or sewer facility.

Section 9. A new section 13.15.070 is hereby added to the Fife Municipal Code to read as follows:

13.15.070 Contract must provide for pro rata reimbursement to owner – Duration of reimbursement period – Extension of reimbursement period.

(1) The latecomer reimbursement contract shall provide for the pro rata reimbursement of a portion of the costs of the water or sewer facilities improved or constructed in accordance with the contract to the owner or owner's assigns for a period of 20 years by any owner of property who did not contribute to the original cost of construction, is within the identified benefited area, and subsequently connects to or uses the water or sewer facilities, including through laterals or branches connecting thereto, within the period that the latecomer reimbursement is effective.

(2) The latecomer reimbursement contract may provide for extension of the 20-year period for 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. Any amendment extending the reimbursement period must specify the duration of the extension and must be filed and recorded with the county auditor. Property owners who are subject to the reimbursement obligations under this section shall be notified of the contract extension under this subsection.

Section 10. A new section 13.15.080 is hereby added to the Fife Municipal Code to read as follows:

18.15.080 Property owner entitled to reimbursement to provide current contact information every two years.

The latecomer reimbursement contract shall include a provision requiring that every two years from the date of execution a property owner entitled to reimbursement under a latecomer reimbursement contract must provide the city with information regarding the current contact name, address and telephone number of the person, company, or partnership that originally entered the

contract. If the property owner fails to comply with this requirement within 60 days of the specified time, the city may collect any reimbursement fees owed to the property owner under the contract, and deposit such funds in the city's capital fund.

Section 11. A new section 13.15.090 is hereby added to the Fife Municipal Code to read as follows:

13.15.090 Determination of reimbursement area and latecomer fee.

(1) The public works director or designee shall determine the boundaries of the reimbursement area for all applications based upon the identification of parcels who may subsequently connect to or use the facilities, including through laterals or branches connecting thereto.

(2) The amount of the latecomer fee shall be established by the public works director so that each property subject to the latecomer fee will pay a fair pro rata share of the costs of the improvements as determined by any appropriate method, including but not limited to determining the total capacity of the water or sewer improvements expressed in equivalent residential units (ERUs) and dividing the total cost by the number of ERUs created by construction or added by improvement of the water or sewer facility.

(3) The amount of the latecomer reimbursement fee shall be estimated by the public works director on the best information available for any public hearing. The actual latecomer reimbursement fee shall be determined after construction and verification of all costs.

Section 12. A new section 13.15.100 is hereby added to the Fife Municipal Code to read as follows:

13.15.100 Public hearing required.

A public hearing shall be held before the city council with regard to the reimbursement area boundaries, assessment method, and the amount of the latecomer reimbursement fee. Notice containing the name of the applicant, a description and the location of the proposed water or sewer improvements, a map of the reimbursement area boundaries, and the preliminary estimate of the latecomer reimbursement fee shall be sent by first-class and certified mail, return receipt requested, to the property owners within the proposed reimbursement area not less than 21 days prior to the date set for the public hearing. The applicant shall provide the city with the list of the names and addresses of persons entitled to notice under this section 45 days prior to the date of the public hearing, and the applicant shall be solely responsible for the correctness of that list, and shall

defend and indemnify the city against any suit or claim that a person entitled to notice did not receive notice due to an error in the list.

Section 13. A new section 13.15.110 is hereby added to the Fife Municipal Code to read as follows:

13.15.110 Latecomer reimbursement contract must be recorded.

(1) The latecomer reimbursement contract agreement shall be recorded with the Pierce County auditor after the final latecomer's reimbursement fee has been established by the Public Works Director. It shall be the sole responsibility of the applicant to record the reimbursement agreement.

(2) Within 30 days after receipt of evidence that the latecomer reimbursement contract has been recorded, the public works director shall record a notice of additional water or sewer facility tap or connection charges with the Pierce County auditor's office as required by RCW 65.08.170.

Section 14. A new section 13.15.120 is hereby added to the Fife Municipal Code to read as follows:

13.15.120 Owner to submit total cost of water or sewer facility.

Within 120 days of the completion of a water or sewer facility, the owner of the real estate must submit the total cost of the water or sewer facility to the city, and a certification by the owner that all of such costs have been paid. The Public Works Director shall use the total cost as the basis for determination of the actual latecomer reimbursement fee to be paid by owners of real property who subsequently connect to or use the contracted water or sewer facilities, including through laterals or branches connecting thereto, and who did not contribute to the original cost of construction.

Section 15. A new section 13.15.130 is hereby added to the Fife Municipal Code to read as follows:

13.15.130 Approval and acceptance of facilities by city.

Upon completion of the water and sewer facilities constructed pursuant to a water or sewer latecomer reimbursement contract in accordance with the approved plans and specifications and requirements of the contract, the city council shall approve and accept such facilities.

Section 16. A new section 13.15.140 is hereby added to the Fife Municipal Code to read as follows:

18.35.140 Latecomer reimbursement fee to be paid prior to tap, connection or use – Removal of tap or connection.

(1) No person, firm or corporation shall be granted a permit or otherwise authorized to tap into or use any water or sewer facilities subject to a latecomer reimbursement contract without first paying to the city, in addition to any and all other costs and charges made or assessed for such tap or use, the latecomer fee required by the provisions of latecomer reimbursement contract under which such facilities were constructed.

(2) All amounts so collected by the city shall be paid out under the terms of the latecomer reimbursement contract within 60 days after receipt.

(3) Whenever any tap or connection is made into any such contracted water or sewer facility without the latecomer fee having been first paid, the city may remove, or cause to be removed, such unauthorized tap or connection and all connecting tile or pipe located in the facility right-of-way and dispose of unauthorized material so removed without any liability whatsoever.

Section 17. A new section 13.15.150 is hereby added to the Fife Municipal Code to read as follows

13.15.150 No liability for failure to collect.

The city shall have no liability to any person, corporation or partnership entitled to payment of latecomer fees collected by the city for the city's failure to collect latecomer fees unless such failure was willful or intentional.

Section 18. A new section 13.15.160 is hereby added to the Fife Municipal Code to read as follows

13.15.160 Administrative fees.

Unless modified in the latecomer contract, the city shall add 15 percent to each utility latecomer charge, to defray the costs of labor, bookkeeping, and accounting necessary to administer the contract. No interest shall be charged on latecomer's fees.

Section 19. A new section 13.15.170 is hereby added to the Fife Municipal Code to read as follows

13.04.170 City participation authorized.

The city may participate in financing water or sewer facilities development projects authorized and improved or constructed in accordance with this chapter. When participate in the financing of water or sewer facilities improved or

constructed in accordance with this chapter the city shall have the same rights to reimbursement as owners of real estate who make contributions as authorized under chapter, and is entitled to a pro rata share of the reimbursement based on the respective contribution of the owner and the city.

Section 20. Repealer. Chapter 13.14 of the Fife Municipal Code is hereby repealed.

Section 21. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

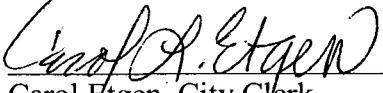
Section 22. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the 9th day of February, 2016.

Passed by the City Council on the 9th day of February, 2016.


Subir Mukerjee, City Manager

ATTEST:


Carol Etgen, City Clerk

APPROVED AS TO FORM:


Loren D. Combs, City Attorney
Assistant City Attorney

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