

ORDINANCE NO. 2022-33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 7, HEALTH AND SANITATION, CHAPTER 7-08, EXTENSION AND REIMBURSEMENT AGREEMENTS FOR THE CONSTRUCTION OF WATER AND SEWER LINES, AND TITLE 13, ENGINEERING DESIGN STANDARDS AND SPECIFICATIONS FOR NEW INFRASTRUCTURE, CHAPTER 13-09 WATER, SEWER, AND OTHER UNDERGROUND UTILITIES, BY AMENDING THE REIMBURSEMENT AGREEMENT PROVISIONS TO ALLOW A LONGER MAXIMUM PAYBACK PERIOD; REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council has determined allowing maximum payback periods for sewer and water line reimbursement agreements in excess of ten (10) years may be appropriate depending upon status of development in an area or the costs of a project.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-08, Extension and Reimbursement Agreements for the Construction of Water and Sewer Lines, Section 7-08-001-0005 is amended to read as follows (deletions are shown as stricken, and new text is shown as underlined capitalized text):

7-08-001-0005 REIMBURSEMENT AGREEMENTS

A. Within sixty (60) days after completion and final acceptance by the City of the extension of any water or sewer line to serve a subdivision, platted or unplatted property, the developer or owner desiring a reimbursement agreement with the City shall provide the following information to the City ~~Utilities~~ **WATER SERVICES** Division:

1. A copy of the "Letter of Acceptance" issued by the City ~~Community Development~~ **ENGINEERING** Division stating that the completed water or sewer line extension improvements conform to the approved plans and specifications;
2. A full-size mylar copy of the approved construction plans and a redlined print of the approved construction drawings indicating actual facilities installed;
3. Receipts identifying actual design and construction costs, and documentation showing that the developer or owner made payment; and

4. A map or diagram showing all properties which will be benefited by the installed water or sewer line.

B. Reimbursement agreements shall identify the developer or owner to whom reimbursement payments shall be made, and shall include a map and/or diagram indicating the properties benefited by the water or sewer line extension along with the specific line payback charges corresponding to each benefited property for collection purposes.

C. Reimbursement agreements shall state the maximum reimbursement amount potentially available to the developer or owner based on the cost of extending water or sewer lines from which others may be served. Construction and design costs shall be submitted to the City ~~Utilities~~ WATER SERVICES Division in writing by the developer or owner. The construction and design costs shall be reviewed and approved by the City ~~Utilities~~ WATER SERVICES Division and shall be used to determine the maximum reimbursement amount to be set forth in the reimbursement agreement. The developer or owner shall receive reimbursement from line payback charges collected by the City within the payback period only from those developers or owners who subsequently tie into, and receive a benefit from, the water or sewer line installed by the developer or owner.

D. Reimbursement agreements shall provide for a maximum payback period of ten (10) years after the effective date of the reimbursement agreement; PROVIDED, HOWEVER, THE CITY COUNCIL MAY EXTEND THE PAYBACK PERIOD FOR UP TO TWO (2) CONSECUTIVE FIVE-YEAR EXTENSIONS AND NOT TO EXCEED A TOTAL OF TWENTY (20) YEARS AFTER THE EFFECTIVE DATE OF THE REIMBURSEMENT AGREEMENT, UPON A CITY FINDING THAT: (1) DEVELOPMENT WITHIN THE ASSESSMENT BOUNDARY IS ONGOING OR IMMINENT; AND (2) THE PROPERTIES WITHIN THE ASSESSMENT BOUNDARY WILL BE BENEFITED OR SERVED BY THE IMPROVEMENTS FOR WHICH THEY WILL BE ASSESSED. Upon the expiration of the maximum payback period, all reimbursement rights held by the developer or owner under the reimbursement agreement shall terminate.

E. Upon the City's receipt of the administrative charge defined below in subsection (H) and the execution of the reimbursement agreement, the City shall record with the Coconino County Recorder's Office, as to each benefited property, a notice of line payback charge, setting forth the terms of the reimbursement agreement. When the line payback charge has been collected for any given benefited property, the City shall record with the Coconino County Recorder's Office a release of the original notice of line payback charge for that property.

F. The City shall establish a separate account for the collection of line payback charges and disbursement of reimbursement payments. All sums collected shall be paid in accordance with the reimbursement agreement, within ninety (90) days of receipt by the City. There shall be no interest charged or paid on such sums.

G. A developer or owner who constructs a water or sewer line under a reimbursement agreement shall have no right, title or claim to reimbursement after the expiration of the maximum payback period under the reimbursement agreement.

H. The City's costs of administration shall be paid to the City by the developer or owner prior to the execution of the reimbursement agreement. Such costs of administration shall be five (5) percent of the total construction costs incurred by the developer or owner for the portion of the water or sewer line which will serve the properties of subsequent developers or owners. Such

costs of administration shall not exceed ten thousand (\$10,000) dollars and shall not be reimbursable.

The Flagstaff City Code, Title 13, Engineering Design Standards and Specifications for New Infrastructure, Chapter 13-09 Water, Sewer, and Other Underground Utilities, Division 13-09-005 is amended to read as follows (deletions are shown as stricken, and new text is shown as underlined capitalized text):

Division 13-09-005
Recapture REIMBURSEMENT Agreement

Sections:

13-09-005-0001 Recapture REIMBURSEMENT Agreement

13-09-005-0001 Recapture REIMBURSEMENT Agreement

A.——If a ~~property owner or developer~~ OR OWNER extends a water or sewer main across undeveloped property to reach his ~~ITS~~ development or property, and wishes to be reimbursed for the cost of installing said extension by future customers THAT WILL BE BENEFITED OR SERVED BY THE NEW LINE EXTENSION along the length of the lines, ~~he~~ THE DEVELOPER OR OWNER may request a ~~recapture~~ REIMBURSEMENT agreement ~~be drawn up by the City,~~ PURSUANT TO THE FLAGSTAFF CITY CODE SECTION 7-08-001-0005 REIMBURSEMENT AGREEMENTS. ~~Developers may request a recapture agreement when a line is constructed across the frontage of parcels not currently receiving service from the City. When the owner of the designated parcel requests service, a prorated cost of the line is collected by the City and returned to the developer. Recapture agreements are set up through the Utilities Division. For questions or details on the procedure to initiate an agreement, contact the Utilities Division.~~

B.——~~The maximum period of time of the recapture agreement shall be ten (10) years.~~

SECTION 2: Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Severability.

That if any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5: Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 13th day of December, 2022.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY