

BEFORE THE BOARD OF DIRECTORS
FOR CLEAN WATER SERVICES

ORDINANCE 43

) An Ordinance Prescribing Procedures for
Formation of Reimbursement Districts In
Order to Provide a Mechanism to Distribute
the Cost of Constructing Sanitary Sewer and
Storm and Surface Water System
Improvements Among Benefited Properties,
and Prescribing Procedures to Reimburse
Part of the Cost of Constructing Such
Improvements; Repealing Ordinance 41; and
Declaring an Emergency

The Board of Directors of Clean Water Services ordains:

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1 B. PURPOSE AND FINDINGS

2 1. The purpose of this Ordinance is to provide revised provisions and procedures to
3 reimburse the District or a Developer who finances the construction of a sanitary sewer, storm or
4 surface water improvement in whole or in part for the cost of those improvements which benefit
5 other properties. It is intended to be used to mitigate the cost of financing such improvements by
6 distributing those costs to benefited property owners at the time those benefited property owners
7 connect to or make use of the improvements.

8 2. This revised Ordinance provides a mechanism for the District to examine whether
9 the improvements meet the criteria for a Qualified Project, determine the Eligible Costs, identify
10 the properties that are Specially Benefited, and provide a reasonable methodology to distribute the
11 Eligible Costs among the Specially Benefited properties. Property owners whose property would
12 be subject to a Reimbursement Charge will be provided an opportunity to review and comment on
13 pertinent information prior to the District establishing a Reimbursement District and
14 Reimbursement Charge pursuant to this Ordinance.

15 3. Property owners are not obligated to pay the Reimbursement Charge until they
16 connect to, use, or derive a benefit from a Qualified Project constructed under this Ordinance.

17 4. The District will endeavor to collect and forward Reimbursement Charges (less a
18 fee for administration) to the Developer who financed the improvements for a period of 10 years
19 from the date the Reimbursement District was established. If the Qualified Project was financed
20 by the District, Reimbursement Charges will be collected until all Eligible Costs have been
21 recovered by the District.

22 SECTION 2. DEFINITIONS

23 The definitions set forth in ORS 310.140 are incorporated by reference. In addition, the
24 following words will have the following definitions when used in this Ordinance, and any
25 Resolution and Order adopted pursuant hereto, unless the context requires otherwise or unless
26 such word is expressly defined otherwise:

1 A. “Apportionment” means dividing the Reimbursement Charge among new lots or
2 parcels created from a Specially Benefited property as determined by District and approved by the
3 Board.

4 B. “Board” means the Board of Commissioners of Washington County, Oregon, in its
5 capacity as the Board of Directors of Clean Water Services.

6 C. “CEO” means the Chief Executive Officer of the District duly appointed by the
7 Board or the designee of the Chief Executive Officer.

8 D. “Connection” means any of the following:

- 9 1. Sanitary sewer. The physical act or process of tapping a public sanitary sewer
10 line, or joining onto an existing side sewer, to connect private plumbing or
11 industrial systems to the public sanitary sewer system, and also includes
12 increasing the number of fixtures or increasing the quantity or strength of the
13 sewage discharge to the sanitary system.
- 14 2. Storm and surface water management. The physical act or process of tapping a
15 public storm sewer line, or joining onto an existing side sewer, to connect
16 private Impervious Surface or other storm and surface water sources or systems
17 to the public storm and surface water system. It also includes creating
18 Impervious Surface that causes or is likely to cause an increase in the quantity
19 or decrease in quality or both, from the natural state of stormwater runoff, and
20 that drains, directly or indirectly, to the storm and surface water management
21 system.

22 E. “Date of Availability” means the date on which the District accepts the
23 improvement as substantially complete.

24 F. “Days” means calendar days unless otherwise specified.

25 G. “Development” has the meaning given it in District’s Design and Construction
26 Standards.

1 H. “Developer” means the person or private or public entity, other than the District,
2 that funds the construction of a Qualified Project.

3 I. “District” means Clean Water Services and includes any representative or
4 employee of the District authorized on its behalf.

5 J. “Eligible Costs” means the direct and indirect costs incurred to construct a
6 Qualified Project. Eligible Costs may include, but are not limited to the cost of labor, materials,
7 supplies, equipment, equipment rental, property acquisition, permits, required fees, engineering,
8 and financing devoted exclusively to the improvements for which a Reimbursement District is
9 sought to be established. Eligible Costs for District-initiated Qualified Projects may also include
10 legal and administrative expenses. Administrative expenses include those incurred prior to
11 formation of a Reimbursement District such as meetings with property Owners, preparing and
12 processing the preliminary engineering study and assessment report, providing notice and
13 conducting hearings. Eligible Costs do not include any of the following:

14 1. profit or overhead;
15 2. amounts attributable to the real property of the Developer that has been
16 dedicated or transferred to the District or other public entity as a condition of
17 Development, such as right of way or easements;
18 3. any amount reimbursable or paid for by other District programs, such as System
19 Development Charges, Regional Stormwater Management Charges, or similar;
20 and
21 4. any costs associated with meeting minimum sizing, depth, or other
22 requirements of the District’s Design and Construction Standards to provide
23 service to the property of the Developer and meet the requirements to provide
24 service to uphill adjacent parcels.

25 K. “Impervious Surface” means all land area that has been altered from its natural
26 state such that it does not allow the infiltration and retention of water equivalent to that of

1 undisturbed soil on the development site. This includes, but is not limited to pavement, buildings,
2 parking areas, and compacted gravel areas.

3 L. "Owner" means the legal owner(s) of record as shown in the real property deed
4 records of the appropriate county, or where there is a recorded land sale contract, the purchaser
5 thereunder.

6 M. "Qualified Project" means any sanitary sewer or storm and surface water
7 improvement project that has been determined by the District to meet all criteria for
8 reimbursement including:

9 1. "Qualified Sanitary or Storm Sewer Extension Project": Extension of a sanitary
10 sewer or storm sewer pipeline improvement project, or a portion of a sanitary
11 sewer or storm sewer improvement project, that makes service available to
12 properties, and any subsequent subdivisions thereof. Developer-initiated
13 Qualified Project improvements must be off-site and downstream of the
14 Developer's own property, or if located upstream must exceed the Developer's
15 obligation to extend the public conveyance system as required by the District's
16 Design and Construction Standards.

17 2. "Qualified Sanitary or Storm Sewer Conveyance Oversize Project":
18 Construction of a sanitary sewer or storm sewer pipeline, larger, deeper, or of
19 greater capacity than necessary to serve the property of the Developer to
20 provide future service to other properties that would otherwise need to upsize
21 the pipeline or construct additional, deeper, or parallel lines upon their
22 Development.

23 3. "Qualified Storm or Surface Water Management Oversize Project":
24 Construction of a storm or surface water improvement with capacity to meet
25 stormwater management requirements of Specially Benefited properties, or any
26 subsequent subdivisions thereof. Developer-initiated Qualified Projects must be

larger or with greater capacity than necessary to meet the stormwater requirements of the Developer's own property and provide benefit to other properties that would otherwise need to construct additional stormwater management approaches to provide service to the same area served by the Qualified Project.

6 N. "Reimbursement Charge" means the charge established by a Resolution and Order
7 of the Board and required to be paid by Owners of Specially Benefited property.

8 O. “Reimbursement District” means the area that is determined by the Board to derive
9 a benefit from construction of the Qualified Project, financed in whole or in part by a Developer or
10 District and includes Specially Benefited property or properties.

11 P. "Reimbursement Resolution and Order" means the Resolution and Order adopted
12 by the Board that identifies Specially Benefited properties and the Reimbursement Charge for
13 each Specially Benefited property.

14 Q. “Rule” means any written standard, directive, interpretation, policy, regulation,
15 procedure or other provision, adopted by the Board of Directors as a Resolution and Order to carry
16 out the provisions of this Ordinance.

17 R. "Specially Benefited" means any property that meets one or more of the following:

1. Capable of receiving sewer service through Connection to a Qualified Sanitary or Storm Sewer Extension Project with no obligation to further extend from the Qualified Project;
2. Relieved of a Development requirement; or
3. Capable of receiving benefit from a Qualified Sanitary or Storm Sewer Oversize Project or a Qualified Storm and Surface Water Management Project.

A Developer's own property is not Specially Benefited.

25 S. "Substantial Completion" has the meaning given to it in District's Design and
26 Construction Standards.

1 T. "This Ordinance" includes Ordinance No. 43, any amendments, and any and all
2 Resolution and Orders adopted pursuant thereto.

3 **SECTION 3. APPLICATION FOR A DEVELOPER-INITIATED REIMBURSEMENT**

4 **DISTRICT**

5 A. A Developer who chooses or is required as a condition of Development to finance
6 or cause construction of public sanitary or storm sewer, or storm and surface water management
7 improvement or some combination of improvements such that other properties are or will be
8 Specially Benefited may request that the District establish a Reimbursement District.

9 B. The request may be submitted to the District before the Developer installs the
10 improvements but not later than 90 Days after the Developer completes and District accepts the
11 improvements as substantially complete.

12 C. A request to establish a Reimbursement District must be in writing, in a form
13 acceptable to the District, and include the following:

- 14 1. Detailed construction drawings or as-built plans showing the actual location,
15 nature and extent of all improvements for which reimbursement is sought;
- 16 2. The parcels of property identified by survey or tax lot number that are
17 purportedly Specially Benefited by the improvements and from which a
18 reimbursement is sought;
- 19 3. The ownership of parcels identified in subsection (2) of this subsection,
20 according to the current real property deed records of the County Department of
21 Assessment and Taxation in the County where the Specially Benefited property
22 is located and the mailing address of such property owners;
- 23 4. A map showing the boundaries of the proposed Reimbursement District and the
24 parcels identified in subsection (2) of this subsection;
- 25 5. The actual or estimated Eligible Costs to construct the Qualified Project as
26 evidenced by bids, estimates or invoices or other evidence satisfactory to the

District. The Eligible Costs may be based upon construction contract documents, together with construction invoices or other appropriate information. The Developer must provide documentation of costs and certify the accuracy of documents submitted to the District. If the District determines that the documented amounts exceed prevailing market rates for a similar project, it may adjust the Eligible Costs;

6. A nonrefundable application fee, as established by the Board by Resolution and Order, to cover the District's costs in providing notice of public hearing(s) and the District's review and report; and
7. If the application is submitted prior to installation of improvements, an additional fee, as established by the Board by Resolution and Order, to cover the District's costs in providing notice of the second public hearing and the District's review and report of final cost information.

14 SECTION 4. DISTRICT REVIEW OF PROPOSED REIMBURSEMENT DISTRICTS AND
15 PREPARATION OF REPORT

16 A. District staff will review District's Qualified Projects and each application for a
17 Developer-initiated Reimbursement District and prepare a report and recommendation to the
18 Board on whether a Reimbursement District should be established. The recommendation must
19 include and address the following factors:

1. Exhibit or drawing showing the location, nature, and extent of the improvements for which reimbursement is sought and whether those improvements meet the criteria of a Qualified Project.
2. The area or parcels that are Specially Benefited by the Qualified Project, and whether or not such parcels would, as a condition of future Development be required to construct some or a portion of the same improvements for which a Reimbursement District and Reimbursement Charge is sought to be established.

1 3. The Eligible Costs of the Qualified Project that are appropriate for
2 reimbursement to the Developer or District.

3 4. A reasonable formula or methodology for distributing the Eligible Costs of the
4 Qualified Project among properties within the proposed Reimbursement
5 District and where appropriate, a unit or measure for deferring a portion of the
6 Reimbursement Charge for property that may be developed at some future date.
7 If applicable, the deferred amount, reason for deferral, and the date or activity
8 that will result in interim or final payments must be included.

9 5. The results of applying the formula referred to in subsection (4) of this
10 subsection to the parcels identified in subsection (2) of this subsection, which
11 becomes the proposed Reimbursement Charge.

12 6. The annual percentage rate applied to the proposed Reimbursement Charge,
13 which represents the estimated annual return on investment of the Eligible
14 Costs.

15 7. The amount of private plumbing modifications that may be financed by District
16 and the rationale for the amount, if it exceeds \$10,000.

17 8. A description of any extraordinary conditions, construction solutions, or
18 circumstances necessary to provide sewer service to any Specially Benefited
19 property and the excess cost thereof in a Reimbursement District. The
20 determination of the necessity and responsibility for the excess cost will be at
21 the District's discretion and subject to Board approval. This description must
22 also include:

23 a. Whether the conditions warrant consideration of full or partial relief from
24 the calculation of distribution of costs or other provisions generally applied
25 by this Ordinance;

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- b. A recommendation regarding the manner, circumstances, or properties to which relief will be applied; and
- c. The extent to which the Specially Benefited Property Owners, the District, and the Developer are financially responsible for the excess cost.

9. If the proposed Reimbursement District is Developer-initiated, whether the Developer has complied with the requirements of this Ordinance.

SECTION 5. REIMBURSEMENT DISTRICT APPROVAL

8 A. The Board will hold a public hearing on the proposed Reimbursement District at
9 which time any person may comment on the proposal.

10 B. Formation of the Reimbursement District does not result in an assessment against
11 property or a lien against property. Therefore, the process is not subject to mandatory termination
12 because of remonstrances.

13 C. The Board has the sole discretion after the public hearing to decide whether to
14 adopt a Resolution and Order approving and forming the Reimbursement District.

15 D. After the District's report on the Reimbursement District is complete, the matter
16 will be scheduled for a hearing before the Board. The District will provide notice of the hearing to
17 establish a Reimbursement District by publication, not less than 10 Days nor more than 30 Days
18 prior to the hearing, in a newspaper of general circulation within the District and by mailing copies
19 of the notice by regular mail not less than 14 Days prior to the hearing to the Owners of any lots or
20 parcels that are proposed to be subject to the Reimbursement Charge.

21 E. The notice in a newspaper of general circulation must contain at least the following
22 information:

23 1. That a Reimbursement District has been proposed;
24 2. That the Board will hold a hearing on the proposed Reimbursement District and
25 Reimbursement Charge on a specified date at which time comments will be
26 heard by the Board;

1 3. Identify the party to be reimbursed, either the District or the name of the
2 Developer;
3 4. That the District has prepared a report concerning the proposed Reimbursement
4 District that is available for public review on the District website or by
5 contacting the District; and
6 5. A general description of the Qualified Project and the costs for which a
7 Reimbursement Charge is sought.

8 F. The District website and the notice mailed to Owners of potentially Specially
9 Benefited properties must contain the following additional information:

10 1. A methodology for distributing the Eligible Costs among Specially Benefited
11 property within the Reimbursement District and, where appropriate, defining a
12 unit for applying the Reimbursement Charge to Specially Benefited property
13 that may undergo future Development;
14 2. The amount to be charged by the District as an administrative fee for processing
15 reimbursements; and
16 3. That failure of the Owner of property subject to the proposed Reimbursement
17 Charge to object before the Board either orally or in writing before the close of
18 the public hearing will be treated and relied upon by the Board as a waiver of
19 objection to the Reimbursement District and Reimbursement Charge
20 established by the Board.

21 G. For purposes of mailing notice to property Owners under this section, any mistake,
22 error, omission or failure with respect to such mailing will not be jurisdictional or invalidate the
23 proceedings with respect to the establishment of the Reimbursement District and Reimbursement
24 Charge.

25 H. The Board will conduct a hearing at the time and place for which notice is given or
26 any continuance thereof and will consider the District's report and any testimony and evidence

1 presented concerning the proposed Reimbursement District. The Board will determine the
2 following:

- 3 1. Whether the properties against which a Reimbursement Charge is proposed to
4 be established under this Ordinance are or will be Specially Benefited by the
5 Qualified Project;
- 6 2. Whether the costs for which a Reimbursement Charge is sought pursuant to this
7 Ordinance are based upon improvement construction contract documents or
8 other appropriate information and the extent to which such costs reasonably
9 reflect prevailing market rates for a similar project;
- 10 3. Whether the method of distributing the Eligible Costs to Specially Benefited
11 properties is reasonably calculated to reflect the special and particular benefits
12 each lot or parcel of land receives from the Qualified Project; and
- 13 4. Whether the annual percentage rate multiplier to be applied to the cost of
14 construction reasonably reflects prevailing market rates.

15 I. After the hearing, the Board may modify the proposed Reimbursement District or
16 Reimbursement Charge or both by adjusting any of the following:

- 17 1. the area or the particular properties from which Reimbursement Charges will be
18 collected;
- 19 2. the amount of Eligible Costs;
- 20 3. the amount, eligibility, responsibility, or distribution of any excess costs
21 described in Section 4.A.8.
- 22 4. the formula used in distributing Eligible Costs; or
- 23 5. the amount of the annual percentage rate by which the Reimbursement Charge
24 will be increased.

25 J. If the Board determines that a Reimbursement District and Reimbursement Charge
26 should be established, it will do so by adopting a Resolution and Order forming a Reimbursement

1 District, specifying the properties within the Reimbursement District, the method of distributing
2 Eligible Costs among properties within the Reimbursement District, the Reimbursement Charge,
3 the annual percentage rate multiplier to be applied, and for Developer-initiated Reimbursement
4 Districts, the administration fee.

5 K. If a Reimbursement District is formed prior to construction of the improvements, a
6 second public hearing, subject to the same notice requirements, must be held after the
7 improvement has been accepted as substantially complete by the District. At that time, the Board,
8 at its discretion, may modify the Reimbursement Resolution and Order to reflect the actual cost of
9 the Qualified Project.

10 L. Following adoption of the Reimbursement Resolution and Order, the District will
11 cause a copy of the Reimbursement Resolution and Order to be recorded in the Office of the
12 County Recorder to provide public notice of the Reimbursement Charge applicable to Specially
13 Benefited parcels described in the Reimbursement Resolution and Order.

14 M. A copy of the Reimbursement Resolution and Order must be sent by regular mail to
15 the Owners of property subject to the Reimbursement Charge and to any other persons who have
16 requested a copy. Failure of the District to send the Reimbursement Resolution and Order to a
17 person or property Owner, or failure of a person or property Owner to receive such
18 Reimbursement Resolution and Order, will not invalidate any proceeding to establish the
19 Reimbursement District and Reimbursement Charge.

20 N. Owners of any property against which a Reimbursement Charge is imposed may
21 seek review under Section 11 of this Ordinance.

22 **SECTION 6. OBLIGATION TO PAY REIMBURSEMENT CHARGE**

23 A. An Owner of Specially Benefited property within any Reimbursement District must
24 pay to the District, in addition to any other applicable fees and charges, the Reimbursement
25 Charge established by the Board and adjusted to reflect the annual percentage rate multiplier, if the
26 property Owner applies for permits and receives approval from the District and utilizes such

1 approval for Connection to a Qualified Project for which a Reimbursement Charge has been
2 established.

3 B. For Developer-initiated Reimbursement Districts, the obligation to pay the
4 Reimbursement Charge expires 10 years from the date the final Reimbursement Charge was
5 established unless the Developer is a public entity such as a city or county.

6 C. For Reimbursement Districts initiated by the District or where the Developer is a
7 public entity such as a city or county, the Reimbursement Charge is not subject to the 10-year
8 expiration date.

9 D. The Owner of a Specially Benefited property may choose to pay the
10 Reimbursement Charge prior to Development without penalty.

11 E. Except as otherwise expressly provided, neither the District nor any officer or
12 employee of the District, acting in their official capacity, will be liable for payment of any
13 Reimbursement Charge, accrued percentage rate or portion of either. Only those payments that the
14 District has received from or has entered into an agreement for installment payments on behalf of
15 Specially Benefited properties within the particular Reimbursement District will be payable to the
16 Developer for the Reimbursement District. The District's general fund or other revenue sources
17 will not be liable for or subject to payment of outstanding and unpaid Reimbursement Charges
18 imposed on private property, notwithstanding the District's allowance of installment payments
19 under Section 7 of this Ordinance.

20 F. The right to reimbursement under this Ordinance may be assigned, transferred or
21 waived after written notice is given by the Developer or their assignee to the District, advising the
22 District to whom future payments are to be made.

23 G. Upon receipt of a Reimbursement Charge or portion thereof, the District will cause
24 a record to be made of the property for which such payment is received and remit such funds to
25 the person upon whose request the Reimbursement District was established or the person's
26 assignee, less an administrative fee for the cost of administering the program.

1 H. The Owner of Specially Benefited property subject to a Reimbursement Charge
2 may apply for Apportionment of the Reimbursement Charge as described under Section 9 of this
3 Ordinance.

4 I. The District will not issue a site development or connection permit or allow
5 Connection until:

- 6 1. the final Reimbursement Charge has been paid in full, or
- 7 2. the proposed Reimbursement Charge has been paid in full if an Owner connects
8 prior to adoption of the final Reimbursement Charge; (District will not
9 reimburse or collect any funds from an Owner if the proposed Reimbursement
10 Charge paid by an Owner is more or less than the final Reimbursement
11 Charge), or
- 12 3. the non-deferred portion of the Reimbursement Charge, as established by the
13 provisions in Section 4.A.4, has been paid in full, or
- 14 4. provision for installment payments or Apportionment has been made and
15 approved, or
- 16 5. the Developer provides an unconditional waiver allowing the District to issue
17 such permits without collecting the Reimbursement Charge, or
- 18 6. the obligation to pay the Reimbursement Charge has expired.

19 **SECTION 7. INSTALLMENT PAYMENTS OF REIMBURSEMENT CHARGE**

20 A. The Owner of residential property subject to a Reimbursement Charge may apply
21 for payment in 20 semiannual installments over a 10-year period, to include interest on the unpaid
22 balance in accordance with ORS 223.205 through 223.295. Extended time for installment
23 payments to be made may be as provided by the Board but not exceed 30 years.

24 B. The District will provide application forms for installment payments, which include
25 a waiver of all rights to contest the validity of the lien, except to correct computational errors.

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1 C. An applicant for installment payments has the burden of demonstrating the
2 applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the
3 applicant is adequate to secure payment of the lien.

4 D. The District will cause the lien to be entered in the lien docket kept in the Office of
5 the County Clerk in accordance with ORS 451.520. From that time the District will have a lien
6 upon the described parcel for the amount of the unpaid balance of the Reimbursement Charge,
7 together with interest on the unpaid balance at the rate in the last published Oregon State
8 Treasurer's bond indices. The lien will be enforceable in the manner provided in ORS 223.205
9 through 223.295.

10 **SECTION 8. FINANCIAL INCENTIVES FOR CONNECTION TO SANITARY SEWER**

11 A. District will offer the following financial incentives to the Owners of Specially
12 Benefited properties in any District-initiated Reimbursement District formed after adoption of this
13 Ordinance:

14 1. If the Owner connects the property to the public sewer within one year of the
15 Date of Availability, the reimbursement account will be credited with an
16 amount equal to that Specially Benefited property's share of the District's
17 administrative and engineering costs for that Reimbursement District, as
18 determined by the Board.

19 2. If an Owner of property without sanitary facilities pays the Reimbursement
20 Charge in full or commits to begin making installment payments within one
21 year of the Date of Availability, the Reimbursement Charge will be reduced by
22 that Specially Benefited property's share of the District's administrative and
23 engineering costs.

24 B. The Owner of an existing structure on a Specially Benefited property in a Reimbursement
25 District formed for a Qualified Sanitary Sewer Extension Project making Connection to the
26 Qualified Project may request that the District finance up to \$10,000, or an amount

1 established by the final Resolution and Order for the Reimbursement District, of the cost of
2 private plumbing modifications necessary to convert from an onsite septic system to public
3 sewer service. Such modifications may include decommissioning the onsite septic system,
4 constructing a private sewer lateral, and reconfiguring plumbing. To qualify for this
5 financing, the property Owners must not be part of any other partition or subdivision, must
6 connect to a Qualified Sanitary Sewer Conveyance Project within one year of the Date of
7 Availability for the Qualified Project and provide documentation of costs to decommission
8 the onsite septic system and connect to the Qualified Project in a form acceptable to the
9 District. Financing of private plumbing modifications is subject to the terms in Section 7 of
10 this Ordinance.

11 SECTION 9. APPORTIONMENT OF REIMBURSEMENT CHARGE

12 A. The Owner of Specially Benefited property subject to a Reimbursement Charge
13 may apply for Apportionment if the property is requested to be, or has been partitioned,
14 subdivided, or otherwise legally divided or modified.

15 B. The application for Apportionment must contain the following:
16 1. The name, address, and telephone number of the applicant;
17 2. Description and evidence of the applicant's interest in the real property;
18 3. Legal description of the property and, if applicable, a legal description of each
19 parcel in a proposed partition or subdivision, or preliminary plat;
20 4. A proposed method for apportioning the Reimbursement Charge, any
21 outstanding Reimbursement Charge installment payments, and reasons for
22 Apportionment;
23 5. Names, addresses, and telephone numbers of known property Owners who may
24 be affected by the Apportionment of the Reimbursement Charge;
25 6. Reference to the Resolution and Order that formed the Reimbursement District;
26 7. Processing fee as provided for in the applicable Resolution and Order;

1 8. Any other information required on a form prepared by the District; and
2 9. A statement indicating whether or not the affected Owners waive a public
3 hearing.

4 C. Upon receipt of the completed application, the District will:

5 1. Review the information supplied in the application;
6 2. Determine the amount of the Reimbursement Charge that is wholly or partially
7 unpaid, and the balance, if any, remaining to be paid;
8 3. Determine whether or not the applicant's interest in the property has been
9 recorded with the subject county;
10 4. Recommend to the Board a method of apportioning the Reimbursement Charge.
11 Such recommendation must consider the original method of distributing the
12 Eligible Costs and the applicant's requested method, if any. In any case the
13 Apportionment must be reasonably calculated to reflect the special and
14 particular benefit each lot or parcel receives from the Qualified Project; and
15 5. Attempt to contact the Developer for Developer-initiated Reimbursement
16 Districts and determine whether they support or oppose the request.

17 D. Upon District's investigation and recommendation of a complete application for
18 Apportionment, the Board will, or upon its own motion, the Board may, initiate a proceeding to
19 apportion the Reimbursement Charge.

20 E. The Board will hold a public hearing on the proposed Apportionment of the
21 Reimbursement Charge. First-class mail notice describing the date, time, and purpose of the
22 hearing must be sent not less than 10 nor more than 30 Days before the date of the public hearing,
23 to all affected property Owners, including the party to be reimbursed. If all affected property
24 Owners have waived the hearing, the Board may adopt an order under Section 9.F. without a
25 hearing.

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1 F. At the conclusion of the hearing, the Board has the sole discretion to decide
2 whether to apportion the Reimbursement Charge in accordance with this Ordinance, by Resolution
3 and Order. The Order must:

- 4 1. Describe each parcel of real property affected by the Apportionment, the
5 amount of the Reimbursement Charge assigned to each parcel, if the
6 Reimbursement Charge is being paid in installments, the prorated amount of the
7 installment assigned to each parcel, the Owner of each parcel and such
8 additional information as is required to keep a permanent and complete record
9 of the Reimbursement Charge and the payments thereon; and
- 10 2. Direct that a copy of the Order be filed with the subject county recording officer
11 required to provide notice of the Reimbursement Charge applicable to Specially
12 Benefited parcels described in the Resolution and Order.

13 G. If the Board adopts a Resolution and Order approving an Apportionment
14 methodology that assigns a Reimbursement Charge to parcels created, or requested to be created,
15 by a partition, subdivision, or other legal process, the Apportionment will become effective at the
16 time that the land division is complete and approved by the County Surveyor, or appropriate
17 authority.

18 H. Reimbursement Charges on lots or parcels formed through partitioning or
19 subdivision will be due upon the earlier of Connection or 10 years from the Date of Availability,
20 regardless of any extensions that may have been granted to the Owner of the original Specially
21 Benefited property.

22 **SECTION 10. DELINQUENCY, COLLECTION, INTEREST AND PENALTIES**

23 A. It is unlawful and a violation of this Ordinance for any person to use, discharge
24 stormwater to, or maintain Connection to, the District sanitary or storm and surface water
25 management systems without paying the appropriate charges and fees established in this
26 Ordinance or any Rule adopted pursuant hereto.

1 B. The Reimbursement Charge is immediately due and payable by Owners of
2 Specially Benefited property upon Connection to a Qualified Project as provided by this
3 Ordinance. If Connection is made or construction commenced without required permits, then the
4 Reimbursement Charge is immediately due and payable upon the earliest date that any such permit
5 was required.

6 C. Delinquent charges may be collected pursuant to this section by the CEO or
7 designee, with the assistance of District legal counsel, without further action or authorization by
8 the Board.

9 D. Delinquent charges may be recovered by the District in any manner provided by
10 law, including an action in the small claims or circuit court of Washington County or other
11 appropriate county.

12 E. The Board may prescribe by Resolution and Order a schedule of interest and
13 penalty charges to be imposed upon delinquent charges.

14 F. In a collection action under this Ordinance the prevailing party shall be entitled to
15 its costs and reasonable attorney fees, including at trial and on appeal.

16 G. Nothing in this Ordinance shall be deemed to create a lien against property, except
17 where such lien arises by operation of law following a court judgment or is granted by a property
18 Owner as a condition of making installment payments of the Reimbursement Charge.

19 SECTION 11. JUDICIAL REVIEW

20 Final decisions of the Board, the CEO or designee, are reviewable solely and exclusively
21 under the provisions of ORS 34.010 through 34.100. Judicial review of a determination by the
22 District CEO or designee made pursuant to this Ordinance may be commenced only by a property
23 Owner who has properly followed the District administrative appeal process. Failure to do so shall
24 constitute a failure to exhaust administrative remedies.

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1 SECTION 12. SEVERABILITY

2 If any section, subsection, provision, clause or paragraph of this Ordinance is adjudged or
3 declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment
4 will not affect the validity of the remaining portions of this Ordinance.

5 SECTION 13. AUTHORIZATION TO CODIFY THIS ORDINANCE

6 District legal counsel is authorized and directed to take such steps as are necessary to
7 codify this Ordinance, including renumbering or correcting technical errors as well as correcting
8 references to the ordinances repealed herein in other District Resolution and Orders provided that
9 no such changes will affect the substance of the Ordinance.

10 SECTION 14. REPEAL OF ORDINANCE 41

11 A. Any Local Sewer Improvement fees to be collected for Qualified Local Sewer
12 Improvement projects under Ordinance 36 remain due and payable to those Developers until 10
13 years following the date the Qualified Local Sewer Improvement was accepted by the District as
14 complete, in accordance with the District's Design and Construction Standards.

15 B. Ordinance 41 is hereby repealed except that any Reimbursement Charges to be
16 collected for Qualified Projects under Ordinance 41 remain due and payable as follows:

17 1. For Developer-initiated Reimbursement Districts 10 years from the date the
18 final Reimbursement Charge was established unless the Developer is a public
19 entity such as a city or county.

20 2. For Reimbursement Districts initiated by the District or a public entity such as a
21 city or county until paid since these Reimbursement Charges are not subject to
22 the 10-year expiration date.

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