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ORDINANCE NO. 1780

(AN ORDINANCE ESTABLISHING PROCEDURES FOR THE FORMATION OF AN ECONOMIC IMPROVEMENT DISTRICT AND FOR LEVYING AND COLLECTING SPECIAL ASSESSMENTS AND PARTICIPANT FEES, AND ADDING CHAPTER 13.18 TO THE HOOD RIVER MUNICIPAL CODE)

WHEREAS, ORS 223.112-223.161 grants authority to cities to establish procedures for the creation of economic improvement districts; and

WHEREAS, economic improvement districts are found by the City Council to be valuable tools in the promotion of commercial activities and the economic well-being of the City as a whole; and

WHEREAS, the Hood River City Council therefore wishes to exercise the authority granted by statute to adopt such procedures;

NOW THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

Chapter 13.18 is added to the Hood River Municipal Code.

CHAPTER 13.18 – ECONOMIC IMPROVEMENT DISTRICTS

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13.18.010 Purpose. The City Council has determined that it is reasonable and necessary to allow the establishment of Economic Improvement Districts in order to make economic improvements and to assess the cost of these improvements to the benefited property in the district, and/or collect the cost of these improvements from benefited businesses in the district.

13.18.020 Definitions. As used in this ordinance, the following terms shall have the following meanings:

Economic Improvement. The meaning as set forth in ORS 223.112, as it may be amended from time to time.

EID. An Economic Improvement District created or proposed under this ordinance.

Economic Improvement Plan. A plan prepared by the property or business owner(s) within the proposed district, or their designee(s), setting out:

- (1) a description of economic improvements proposed to be carried out;
- (2) the number of years, to a maximum of five, in which assessment are proposed to be levied and/or participant fees are proposed to be collected;
- (3) a preliminary estimate of the total cost of the proposed economic improvements;
- (4) the proposed boundaries designated by map or perimeter description of an economic improvement district within which subject properties would be assessed and/or businesses from whom participant fees would be collected to finance the cost of the economic improvement;
- (5) the proposed formula for assessing the cost of economic improvements against properties in the district, which may be based on the assessed value of the property, the square footage, or other fair method of apportionment, and/or establishing the participant fee on any business, trade, occupation or profession carried on or practiced in the economic improvement district, or both such property assessment and participant fee;
- (6) a statement whether a property assessment will be a voluntary assessment or mandatory assessment; and
 - (a) if voluntary, that the scope and level of improvements could be reduced depending on the amount of money collected; or

(b) if mandatory, that the assessment will be considered a tax under the Oregon Constitution, Article XI Section 11(b) and may be reduced to fit within the property tax limitation thereby affecting the level and scope of services described.

Lot. A lot, block or parcel of land.

Owner. The record holder of legal title or the purchaser where land is being purchased under a land sale contract recorded or verified in writing by the record holder of legal title to the land.

13.18.030 Restrictions. No Economic Improvement District shall be formed which would:

(A) Levy property assessments in an economic improvement district in any year that exceeds one percent (1%) of the true cash value of all the real property located within the district.

(B) Include within an economic improvement district any area of the City that is not zoned for commercial or industrial use.

(C) Levy assessments on residential real property or any portion of a structure used for residential purposes.

13.18.040 Initiation.

(A) An EID may be initiated:

(1) By the Council on its own motion;

(2) Upon petition of one or more owners of property or businesses to be benefited specifically by the improvement; or

(3) As part of a master economic development plan prepared by or for the City.

(B) If a petition is filed, it shall include the proposed economic improvement plan. The City shall prepare the proposed economic improvement plan for EIDs initiated pursuant to (A)(1) and (A)(3) above.

(C) Upon initiation of an EID, the Council shall schedule a public hearing to be held on the question of establishment of the district.

13.18.050 Notice of Council Hearing. Not later than 30 days prior to the date of the public hearing required in Section 13.18.040(C) above, notice of the public hearing shall be mailed or delivered personally to affected property owners and/or business owners within the proposed district boundaries. The notice shall state the proposed intention to construct or undertake the economic improvement project and to assess benefited property or impose a participant fee for a part or all of the cost. The notice shall state the time and place of the public hearing, and that a copy of the economic improvement plan is available for review from the City Recorder.

13.18.060 Hearing.

(A) At the public hearing the proposed economic improvement plan shall be presented.

(B) Affected property or business owners shall have the opportunity to appear in person or in writing at the hearing to support or object to the proposed EID.

(C) The Council may continue the hearing as it deems necessary.

13.18.070 Establishing EID.

(A) After the hearing held pursuant to Section 13.18.060, the Council may determine that the EID shall be formed, as proposed or as modified by the Council, if the Council determines that the economic improvements would afford special and peculiar benefit to property and/or businesses within the economic improvement district different in kind or degree from that afforded to the general public.

(B) If the Council determines that an economic improvement district shall be formed the Council shall do so by ordinance. The Council shall then determine whether the property and/or businesses benefited shall bear all or a portion of the cost and, based on the actual or estimated cost of the improvement, a method of assessing the cost of the improvement. The Council may:

(a) Use any just and reasonable method to determine the boundaries of an economic improvement district consistent with the benefits derived.

(b) Use any just and reasonable method to apportion the sum to be assessed among the benefited properties and/or businesses.

(c) Authorize payment by the City of all or part of the cost of an improvement when in the opinion of the Council the topographical and physical conditions, unusual or excessive public travel, or other character

of the work warrants only partial payment or no payment of the cost by owners of benefited properties.

(C) Nothing contained in this section shall preclude the Council from using other means of financing improvements, including federal and state grants-in-aid, revenue bonds, general obligation bonds, or other legal means of finance. If other means of finance are used, the Council may assess according to benefits derived to cover any remaining cost.

13.18.080 Assessment and Participant Fee Notice and Hearing.

(A) The ordinance establishing the EID shall require notice of the proposed assessment and/or participant fee to be mailed or personally delivered to the owner of each lot proposed to be assessed, at the address shown on the Hood River County Tax Assessor's roll, or to the business to be charged. The notice shall state the amount of property assessment proposed on the property or participant fee proposed on the business, and fix a date and time by which written objections shall be filed with the City Recorder. The notice shall state the time and place of a second public hearing at which affected property or business owners may appear and submit written statements to support or object to the proposed property assessment or participant fee. Objections shall state grounds for objection. The hearing shall not be held sooner than 30 days after the mailing or personal delivery of notices.

(B) The ordinance shall also provide that the assessments and fees will not be made and the economic improvement project terminated when objections in writing as specified in the notice at the public hearing are received from owners of property upon which more than thirty-three percent (33%) of the total amount of assessments is to be levied or if a participant fee is charged, from more than thirty-three percent (33%) of persons conducting business within the EID who would be subject to the proposed fee.

(C) At the hearing the Council shall consider objections and may adopt, correct, modify or revise the proposed property assessments or participant fees.

(D) Notwithstanding any other provision of law, an owner of property who fails to submit a written objection as provided above shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the final assessment ordinance.

13.18.090 Final Property Assessment/Fee Ordinance. If written objections in the requisite thirty-three percent (33%) are not received as provided above, the City Council may adopt a final ordinance levying the appropriate property assessments or participant fee. The Council may choose not to include any lot or parcel of property if the owner of that property submitted written objection at the public hearing.

13.18.100 Notice of Property Assessment.

(A) Within ten (10) days after the ordinance levying property assessments has been passed, the City Recorder shall send a notice of property assessment to each owner of assessed property by certified mail.

(B) The notice of property assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment, and the date of the assessment ordinance, and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within ten (10) days after the date of the publication of notice or pays the assessment in full within sixty (60) days after the effective date of the assessment ordinance.

13.18.110 Notice of Participant Fee. Within ten (10) days after the ordinance levying a participant fee on a business has been passed, the City Recorder shall send a notice of the participant fee to each assessed business in the district by certified mail. The notice shall state the amount of the participant fee and when and where it shall be paid.

13.18.120 Lien Record and Foreclosure Proceedings for Property Assessments.

(A) Upon adoption of the ordinance adopting a property assessment, the City Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket the amounts shall become liens and charges on the lots that have been assessed for improvement.

(B) Assessment liens of the City shall be superior and prior to all other liens or encumbrances on property insofar as state law permits.

(C) Starting thirty (30) days after the effective date of the assessment ordinance, the property assessment shall accrue interest at the rate set by the Council, and the City may foreclose or enforce collection of assessment liens in the manner provided by state law.

(D) The City may enter a bid on property being offered at a foreclosure sale. The City shall have priority over all bids except those made by persons who would be entitled under state law to redeem the property.

13.18.130 Amendments.

(A) When the Council considers it necessary to levy property assessments or impose participant fees upon property or businesses in an economic improvement district for longer than the original period of time specified in the ordinance that created the district, the Council shall enact an ordinance that provides for continued property assessments or participant fees for an additional specified number of years (not to exceed three (3) years) and grants to property and/or business owners in the district the notice and right to object pursuant to Section 13.18.080.

(B) When the Council considers it necessary to expand the boundaries of the district, the City shall provide each new property or business owner with notice and the right to object as specified in Section 13.18.050 of this Chapter. If the Council decides to alter the boundaries, it shall do so by ordinance.

13.18.140 Reapportionment.

(A) When there has been an approved division of a parcel and that parcel has outstanding a property assessment remaining wholly or partially unpaid, and full payment or an installment payment is not due, then any owner, mortgagee, or lien holder of any property affected by the division may apply for a reapportionment of the property assessment. The Council shall reapportion the property assessment by resolution, and that resolution shall be filed with the lien docket. Where the property assessment is being paid in installments, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with the percentage of the remaining installment payments equal to the percentage of the unpaid property assessment levied on the parcel upon apportionment. Reapportionment shall be on the same basis as the original property assessment.

(B) Reapportionment of a participant fee, if any, will be addressed in the assessment ordinance.

13.18.150 Expenditure of Property Assessments and Participant Fees.

(A) Money derived from property assessments and participant fees imposed under this Chapter shall be spent only for economic improvements described in the economic improvement plan and for the costs of City administration of the EID, including formation expenses.


(B) An assessment ordinance adopted under this Chapter may require creation of an advisory committee for each EID to recommend to the council, from time to time, how expenditures of moneys for economic improvements pursuant to the economic improvement plan shall be allocated. The Council shall consider the recommendations and may, by resolution, amend the expenditure provisions of the assessment ordinance. If an advisory committee is created, the Council shall, in appointing members to the committee, give strong preference to those property owners and business owners within the EID.

Read for the first time: August 9, 1999.

Read for the second time and passed: August 23, 1999, to become effective thirty (30) days hence.


Paul G. Cummings, Mayor

ATTEST:


Anita R. Smith, City Recorder