

ORDINANCE NO. 2014-937

AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, AMENDING CHAPTER 3.20 OF THE DEER PARK MUNICIPAL CODE, ESTABLISHING A LOCAL IMPROVEMENT DISTRICTS GENERAL ORDINANCE, DESIGNATING A CITY OFFICIAL FOR PURPOSES OF RCW 35.43.120 AND 35.43.130, ESTABLISHING THE PENALTY FOR DELINQUENT ASSESSMENTS AND INSTALLMENTS, PRESCRIBING RULES REGARDING THE FORECLOSURE OF LOCAL IMPROVEMENT DISTRICT ASSESSMENT LIENS, PRESCRIBING RULES AND REGULATIONS FOR THE MAINTENANCE AND OPERATION OF THE CITY'S LOCAL IMPROVEMENT GUARANTY FUND, RATIFYING PAST ACTIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

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THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, DO ORDAIN as follows:

Section 1. Chapter 3.20 of the Deer Park Municipal Code is hereby renamed "LOCAL IMPROVEMENT DISTRICTS" and is amended in full to read as follows:

CHAPTER 3.20  
LOCAL IMPROVEMENT DISTRICTS

Sections:

- 3.20.010 General.
- 3.20.020 Administration of LID and ULID Proceedings.
- 3.20.030 LID and ULID Petitions to be filed with the City Clerk.
- 3.20.040 Officer designated to make preliminary estimates.
- 3.20.050 Penalty for delinquent assessments and installments.
- 3.20.060 Commencement of foreclosure proceedings.
- 3.20.070 Extension of due date(s) for installments.
- 3.20.080 Acceleration of installments.
- 3.20.090 Maintenance and operation of Guaranty Fund - General.
- 3.20.100 Minimum balance prescribed for the Guaranty Fund.
- 3.20.110 Use of Guaranty Fund to pay Local Improvement District obligations.
- 3.20.120 Use of Guaranty Fund to pay arbitrage rebate.

**3.20.010 General.**

The City Council of the City of Deer Park, Washington (the "City") does hereby find and determine as follows:

A. RCW 35.43.030 requires that the City Council pass such general ordinances as may be necessary to carry out the provisions of chapters 35.43 through 35.54 RCW, and specifies that all proceedings relating to local improvements shall be conducted in accordance with such laws and ordinances. The City also must designate by general ordinance an officer with whom petitions are to be filed pursuant to RCW 35.43.120 and an officer to take certain actions required by RCW 35.43.130.

B. RCW 35.49.030 requires that the City prescribe by general ordinance the penalty to be borne upon delinquent special assessments.

C. RCW 35.50.030 authorizes the City to establish by general ordinance the date each year on which assessment lien foreclosure proceedings are to be commenced.

D. RCW 35.50.040 provides that the City may, by general ordinance, provide that upon failure to pay any installment of a local improvement assessment, when due, the entire assessment shall be due and payable and the collection thereof enforced by foreclosure.

E. RCW 35.54.010 requires that there be and there is hereby established in the City a fund designated the "local improvement guaranty fund No. \_\_\_\_\_" (the "Guaranty Fund") for the purpose of guaranteeing, when required, to the extent of the Guaranty Fund, the payment of the City's local improvement bonds, warrants and, consistent with RCW 39.50.050, short-term obligations issued to pay for any local improvement. RCW 35.54.020 mandates that the City shall prescribe by general ordinance appropriate rules and regulations for the maintenance and operation of the Guaranty Fund that are not inconsistent with the provisions of chapter 35.54 RCW.

**3.20.020 Administration of LID and ULID proceedings.**

The City shall administer and prosecute all proceedings related to its local improvement districts and utility local improvement districts in substantial compliance with the laws of the State of Washington, including chapters 35.43 through 35.54 RCW, as the same may be amended from time to time. No City action taken in substantial compliance with then-applicable State statutes ever shall be invalidated for failure to comply with any provision of this ordinance.

**3.20.030 LID and ULID Petitions to be filed with City Clerk.**

Any petitions required by chapter 35.43 RCW (or any successor statutes) to be filed with the City to initiate the formation of a local improvement district or utility local improvement district shall be filed with the City Clerk.

**3.20.040 Officer designated to make preliminary estimates.**

The City's Treasurer is designated as the City's officer responsible for taking, or causing to be taken, such actions as are required to be taken by RCW 35.43.130, as such statute may be amended from time to time.

**3.20.050 Penalty for delinquent assessments and installments.**

Each assessment or installment thereof that is collected by the City pursuant to chapter 35.49 RCW shall be subject, at the time of delinquency, to a charge of 12% penalty levied on both principal and interest due upon that installment. Notwithstanding the foregoing, the City may, by ordinance, waive or reduce the penalty on any delinquent installment to the extent the City Council determines the delinquency may have been caused by an error on the City's behalf (e.g. a delinquency resulting from an inadvertent understatement by the City of the amount owed on account of an installment). Payments received following a delinquency shall be applied first to attorneys' fees and costs incurred by the City to collect, then to penalties due, then to interest due, then to principal.

**3.20.060 Commencement of foreclosure proceedings.**

All assessment lien foreclosure proceedings initiated by the City under chapter 35.50 RCW shall be commenced for purposes of RCW 35.50.030 on or before March 1 of each year; provided, any delay in commencing an assessment lien foreclosure proceeding beyond March 1 in any given year shall not preclude the City from commencing such proceeding on any date thereafter, and for purposes of RCW 35.50.030, such later date shall be deemed to be the other date fixed by general ordinance pursuant to RCW 35.50.030.

**3.20.070 Extension of due date(s) for installments.**

Pursuant to RCW 35.49.020 and 35.49.020, the City shall provide by ordinance the annual due date for assessment installments. If, during the course of administering the collection of such installments, the City makes an error (e.g. an inadvertent understatement by the City of the amount owed on account of an installment) in the process of collecting such installments, the City may extend one or more installment due dates so long as the City Council finds that the rights of bondholders will not be adversely affected by such extensions. The City shall provide for such extensions by ordinance.

**3.20.080 Acceleration of installments.**

Upon the failure to pay the City any installment of a local improvement district assessment, when due, the entire assessment shall be due and payable as of the date of such delinquency, and the collection thereof enforced by foreclosure pursuant to chapter 35.50 RCW.

**3.20.090 Maintenance and operation of the Guaranty Fund—General.**

The City shall maintain and operate its Guaranty Fund in accordance with the laws contained in chapter 35.54 RCW and such other laws that specifically or generally apply to the Guaranty Fund or obligations secured thereby (if any), as the same may be amended from time to time. Obligations guaranteed by the Guaranty Fund shall include, in addition to those obligations referred to in chapter 35.54 RCW, obligations issued under chapter 39.50 RCW in anticipation of the issuance of local improvement district bonds.

**3.20.100 Minimum balance prescribed for the Guaranty Fund.**

The City shall maintain a balance in the Guaranty Fund during each calendar year that is at least equal to the interest scheduled to come due on all outstanding obligations guaranteed by the Guaranty Fund (if any) during the following calendar year. Notwithstanding the foregoing, the City Council may, with respect to the obligations issued on account of any local improvement district, require by ordinance that the minimum balance in the Guaranty Fund on account of such obligations be greater than is otherwise required by the preceding sentence. Notwithstanding the foregoing, pursuant to RCW 35.54.010(2), the Guaranty Fund shall not be subject to any claim by the owner or holder of any local improvement bond, warrant, or other short-term obligation issued under an ordinance that provides that such obligations shall not be secured by the Guaranty Fund.

**3.20.110 Use of Guaranty Fund to pay Local Improvement District obligations.**

If, prior to an interest payment date of obligations secured by the Guaranty Fund, the City Treasurer determines that there is insufficient money in the local improvement fund or other fund or account established to pay debt service on those obligations to pay the interest or principal and interest scheduled to come due on that interest payment date, then the City Treasurer shall withdraw from the Guaranty Fund and apply an amount sufficient to pay that deficiency on that interest payment date. To the extent the amount available in the Guaranty Fund on such interest payment date is not sufficient to cure the deficiency, the City Treasurer shall issue interest bearing warrants drawn on the Guaranty Fund as prescribed by statute. This section is intended to supplement chapter 35.54 RCW and to prevent defaults in the payment of obligations secured by the Guaranty Fund.

**3.20.120 Use of Guaranty Fund to pay arbitrage rebate.**

To the extent that the City is required by Section 148 of the Internal Revenue Code of 1986, as amended, or any successor federal law, to make arbitrage rebate payments to the U.S. Treasury on account of the investment of the Guaranty Fund, such payments may be made from amounts on deposit in the Guaranty Fund. The City may establish subaccounts within the Guaranty Fund from time to time, if necessary or desirable for purposes of accounting for the investment of money therein.

**Section 2. Ratification.** All acts heretofore taken by the City in connection with the formation of its local improvement districts and utility local improvement districts, the levying, collection and enforcement of special assessments therein, and the operation and maintenance of the Guaranty Fund, are ratified and approved.

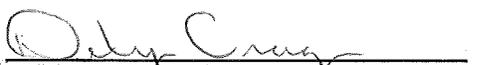
**Section 3. Severability.** If any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause, or phrase of this Ordinance.

**Section 4. Effective Date.** This ordinance shall take effect and be in full force five (5) days after this ordinance or a summary thereof consisting of the title is published.

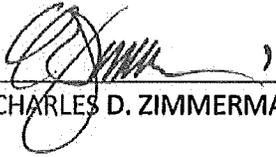
APPROVED:

  
ROBERT WHISMAN, MAYOR

ATTEST/AUTHENTICATED:

  
DEBY CRAGUN, CITY CLERK/TREASURER

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By:   
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK	:	<u>12/31/13</u>
PASSED BY THE CITY COUNCIL	:	<u>01-08-14</u>
PUBLISHED	:	<u>01-10-14</u>
EFFECTIVE DATE	:	<u>01-17-14</u>
ORDINANCE NO.	:	<u>Ord 9014.937</u>

SUMMARY OF ORDINANCE NO. 2014-937

of the City of Deer Park, Washington

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On the \_\_\_\_\_ day of January, 2014, The City Council of the City of Deer Park passed Ordinance No. 2014-937. A summary of the content of said Ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, AMENDING CHAPTER 3.20 OF THE DEER PARK MUNICIPAL CODE, ESTABLISHING A LOCAL IMPROVEMENT DISTRICTS GENERAL ORDINANCE, DESIGNATING A CITY OFFICIAL FOR PURPOSES OF RCW 35.43.120 AND 35.43.130, ESTABLISHING THE PENALTY FOR DELINQUENT ASSESSMENTS AND INSTALLMENTS, PRESCRIBING RULES REGARDING THE FORECLOSURE OF LOCAL IMPROVEMENT DISTRICT ASSESSMENT LIENS, PRESCRIBING RULES AND REGULATIONS FOR THE MAINTENANCE AND OPERATION OF THE CITY'S LOCAL IMPROVEMENT GUARANTY FUND, RATIFYING PAST ACTIONS, AND PROVIDING FOR AN EFFECTIVE DATE.**

The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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DEBY CRAGUN, CITY CLERK/TREASURER

I, DEBRA L. CRAGUN, City Clerk of the City of Deer Park, Washington, certify that the attached copy of Ordinance No. 2014-937 is a true and correct copy of the original ordinance passed by the City Council on the 8<sup>th</sup> day of January, 2014, as that ordinance appears on the Minute Book of the City,.

DATED this 9<sup>th</sup> day of January, 2014.

CITY OF DEER PARK, WASHINGTON



DEBRA L. CRAGUN, City Clerk