



Legislation Text

File #: CB 118747, **Version:** 3

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE establishing a new Ballard Parking and Business Improvement Area; levying special assessments upon owners of business property, multi-family residential property, and mixed-use property within the area; providing for the deposit of revenues in a special account and expenditures therefrom; providing for collection of and penalties for delinquencies; providing for the establishment of a Ratepayers Advisory Board; and providing for an implementation agreement with a Program Manager.

WHEREAS, chapter 35.87A RCW authorizes the City to establish business improvement areas to provide special benefits to business and property owners within a defined geographic area through the imposition of special assessments; and

WHEREAS, on April 25, 2016, the City Council adopted Resolution 31657, adopting updated policies regarding the establishment and management of Business Improvement Areas to address the increased complexity, number and size of BIAs, combined with a goal for a wider variety of ratepayers and services, and to require additional analysis during the development of BIAs and expanded policies to govern the quality of proposals; and

WHEREAS, planning and outreach for the proposed Ballard BIA preceded adoption of Resolution 31657, which amended BIA policies. Consequently, some elements of the proposed BIA are inconsistent with current policies; and

WHEREAS, Council expects future proposals to establish or modify a BIA shall be developed and analyzed to be more consistent with the policies adopted in Resolution 31657; and

WHEREAS, the owners of businesses, multi-family residential, and mixed-use properties located within the

area and representing nearly 60 percent of the special assessments levied by this ordinance filed a petition with The City of Seattle to establish a new Ballard Parking and Business Improvement Area (Ballard Business Improvement Area) pursuant to chapter 35.87A RCW, a copy of which is filed in C.F. 319875; and

WHEREAS, the owners of parcel numbers 2768303245, 2768303229, and 2768303190, known as the “Ballard Blocks,” which are outside of the boundaries proposed in the petition, submitted a letter of support, after petitions had been circulated, requesting their properties be added to the Ballard Business Improvement Area; and

WHEREAS, to gauge the percentage of special assessments that were reflected in signed petitions, City staff followed RCW 35.87A.010, and calculated the dollar amount of the special assessment that each business, multi-family residential, or mixed-use property would pay, and compared the dollar amount represented by signed petitions and letters of support to the estimated total for the entire proposed Ballard Business Improvement Area, including the Ballard Blocks, and the result was nearly 63 percent, which exceeds the threshold of 60 percent stated in RCW 35.87A.010; and

WHEREAS, the City Council adopted Resolution 31686, initiating a new Ballard Business Improvement Area, including Ballard Blocks via the resolution method instead of the petition method as provided for in RCW 35.87A.030; and

WHEREAS, pursuant to RCW 35.87A.040, the City Council on Monday, August 1, 2016, adopted Resolution 31685 entitled “A RESOLUTION of intention to establish a Ballard Parking and Business Improvement Area, and fix a date and place for a hearing thereon,” which stated its intention to establish the new and expanded Ballard Business Improvement Area, the proposed boundaries and the proposed programs, and which set the date and time for a public hearing; and

WHEREAS, the purpose of the new Ballard Business Improvement Area is to enhance conditions for the business, multi-family residential, and mixed-use properties by performing activities that go beyond the

basic services provided by The City of Seattle; and

WHEREAS, as provided by Resolution 31685, the City Council, through its Affordable Housing,

Neighborhoods and Finance Committee, held a public hearing at 9:30 a.m. on September 7, 2016 at City

Council Chambers, City Hall, 600 Fourth Avenue, 2nd Floor, Seattle, Washington, 98104; and

WHEREAS, the testimony received at that hearing resulted in the Council determining that establishing a new

Ballard Business Improvement Area is in the best interest of the owners of business, multi-family

residential, and mixed-use properties within the Ballard Business Improvement Area's boundaries;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Area Established. As authorized by chapter 35.87A RCW, there is established a Ballard Business Improvement Area within the following boundaries as shown on the map attached as Exhibit A to this ordinance (when a street or alley is named, the area boundary is the centerline of the right-of-way including vacated portions unless otherwise specified in the description):

Beginning at the intersection of NW Market Street and 28th Avenue NW, proceed east along NW Market Street to 26th Avenue NW. Proceed north along 26th Avenue NW to NW 56th Street. Proceed east along NW 56th Street to the western boundary of the property at the northwest corner of the intersection at 24th Avenue NW and NW 56th Street. Proceed north along the western boundary of the property at the northwest corner of the intersection at 24th Avenue NW and NW 56th Street to the northern boundary of the property at the northwest corner of the intersection at 24th Avenue NW and 56th Street. Proceed east along the northern boundary of the property at the northwest corner of the intersection at 24th Avenue NW and NW 56th Street to the western boundary of the property at the southwest corner of the intersection at 24th Avenue NW and NW 57th Street. Proceed north along the western boundary of the property at the southwest corner of the intersection at 24th Avenue NW and NW 57th Street to the northern boundary of the property at the southwest corner of the intersection at 24th Avenue NW and NW 58th Street. Proceed east along NW 58th Street to 22nd Avenue NW including the two most eastern properties adjoining NW 58th Street on the south side, then south to include the three most eastern properties adjoining NW 57th Street on the north side. Proceed east along NW 57th Street to 20th Avenue NW. Proceed south along 20th Avenue NW until the northern boundary of the property at the northeast corner of the intersection at NW 56th Street and 20th Avenue NW. Proceed east along the northern boundaries of the properties adjoining NW 56th to 17th Avenue NW. Proceed south along 17th Avenue NW to NW 56th Street. Proceed east along NW 56th Street to 15th Avenue NW. Proceed south along 15th Avenue NW to NW Market Street. Proceed west along NW Market Street to 17th Avenue NW. Proceed south along 17th Avenue NW to NW Ione Pl. Proceed southwest along NW Ione Place to Russell Avenue NW. Proceed northwest along Russell Avenue NW to NW Market Street. Proceed southwest along the southeastern boundary of the property at the southwest corner of the intersection at NW Market Street and Russell Avenue NW to Leary Avenue NW. Proceed northwest along Leary Avenue NW until the southeastern boundary of the

property at the southeast corner of the intersection at 22nd Avenue NW and NW Market Street. Proceed southwest along the southeastern boundary of the property at the southeast corner of the intersection at 22nd Avenue NW and NW Market Street to the northeastern boundary of the property at the northeast corner of the intersection at 22nd Avenue NW and Ballard Avenue NW. Proceed southeast along the northeastern boundary of the property at the northeast corner of the intersection at 22nd Avenue NW and Ballard Avenue NW to include all of the properties adjoining Ballard Avenue NW up to NW Vernon Place. Proceed northeast along NW Vernon Place to Leary Avenue NW. Proceed southeast on Leary Avenue NW to 20th Avenue NW. Proceed south along 20th Avenue NW to the northeastern boundary of the property at the northeast corner of the intersection at 20th Avenue NW and Ballard Avenue NW. Proceed southeast along the northeastern boundary at the northeast corner of the intersection at 20th Avenue NW and Ballard Avenue NW to NW Ione Place. Proceed southwest on NW Ione Place to Ballard Avenue NW. Proceed northwest along Ballard Avenue NW to the northwestern boundary of the property at the northwest corner of Shilshole Avenue NW and 20th Avenue NW. Proceed southwest along the northwestern boundary of the property at the northwest corner of Shilshole Avenue NW and 20th Avenue NW to the southwestern boundary of the property at the southwest corner of the intersection at Ballard Avenue NW and 20th Avenue NW. Proceed northwest along Ballard Avenue NW to include all properties adjoining Ballard Avenue NW on the south side to NW Market Street. Proceed southwest along NW Market Street to include all properties adjoining NW Market Street to Shilshole Avenue NW. Proceed west along Shilshole Avenue NW to 24th Avenue NW. Proceed south along 24th Avenue NW to NW 54th Street. Proceed west along NW 54th Street to 28th Avenue NW. Proceed north along 28th Avenue NW to NW Market Street.

Beginning at the intersection NW 45th Street and 15th Avenue NW, proceed north along 15th Avenue NW to NW 46th Street. Proceed east along NW 46th Street to the eastern parcel boundary of 2768303225. Proceed north along the eastern parcel boundary of 2768303225, following the parcel boundary west and south to NW 46th Street. Proceed west along NW 46th Street to 15th Avenue NW. Proceed north along 15th Avenue NW to the southern parcel boundary of 2768303135. Proceed east and then north along the western property boundary of parcel 2768303135 to NW Ballard Way. Proceed east along NW Ballard Way to 14th Avenue NW. Proceed south along 14th Avenue NW to NW 45th Street. Proceed west along NW 45th Street to 15th Avenue NW.

In case of a conflict between the descriptions of the areas and the map, the descriptions shall control.

Section 2. Programs. Special assessment revenues shall be used for the following component programs:

- A. Clean Environment;
- B. Public Safety/Public Health Enhancement;
- C. Marketing and Promotions;
- D. Advocacy, Urban Design, and Transportation;
- E. Business Development and Retention;
- F. Management.

All such activities are supplemental to street maintenance and law enforcement provided by the City

and are not intended to displace any services regularly provided by municipal government.

Section 3. Levy of Special Assessments. To finance the programs authorized in Section 2 of this ordinance, there is levied upon and shall be collected from the owners of business property, multi-family residential property (buildings containing four or more residential units), and mixed-use property (multi-family residential and commercial), located within the boundaries of the Ballard Business Improvement Area described in Section 1 of this ordinance, a seven-year special assessment. The initial assessment calculations will be based upon King County Assessor's Office records as of April 1, 2015. Ratepayers will be assessed by The City of Seattle for seven annual installments beginning with the base year of authorization, by applying the following assessment rates to each ratepayer:

A. First Year Assessment = $(\$0.52 \times (\text{Total Appraised Value}/\$1,000)) + (\$0.12 \times \text{Total Lot Square Feet})$. Total Appraised Value in these calculations shall be based on Land + Improvements. This calculation is called the "Base Formula." Modifications or limitations to the First Year Assessments are described below. To the extent that ratepayers are eligible for multiple assessment ceilings, the lowest applicable rate applies.

B. The assessment ceiling for owned and rental multi-family residential units is \$90 per unit per year. This ceiling applies to all multi-family residential buildings containing four or more residential units whether or not the building is located on one or multiple property parcels and/or the ratepayer has combined or intends to combine multiple parcels.

C. The assessment ceiling for building square footage is \$0.20 per square foot for any property with a Floor Area Ratio that is 0.5 or more. Floor Area Ratio in these calculations shall be based on Building Square Feet divided by Total Lot Square Feet.

D. If the Total Appraised Value (Land + Improvements) and Total Taxable Value (Land + Improvements) in the King County Assessor's records are not equal due to tax exemption status, the following rules apply:

1. If the Total Taxable Value is zero, then the First Year Assessment = $[(\$0.52 \times (\text{Total$

Appraised Value / \$1,000)) + (\$0.12 x Total Lot Square Feet)] x 25%.

2. If the Total Taxable Value is not zero, the First Year Assessment =

$$(\$0.52 \times (\text{Total Taxable Value} / \$1,000)) + (\$0.12 \times (\text{Total Lot Square Feet} \times \text{Total Taxable Value} / \text{Total Appraised Value})) + [(\$0.52 \times (\text{Total Appraised Value} - \text{Total Taxable Value} / \$1,000)) + (\$0.12 \times (\text{Total Lot Square Feet} \times ((\text{Total Appraised Value} - \text{Total Taxable Value}) / \text{Total Appraised Value})) \times 25\%)]$$

E. Any properties owned by governmental entities shall be subject to assessment based on the assessment rates described above if the governmental entity is operating as a business. At the time of formation, there are no properties owned by governmental entities that are subject to assessment.

F. To maintain the current level of services and benefits provided by the Ballard Business Improvement Area, the assessment rates shall be adjusted by an Inflationary Factor applied to each of the assessment rates after the first year assessment. The Inflationary Factor will be the lesser of three percent per year or the percentage change in the Consumer Price Index for All Urban Consumers in Seattle-Tacoma-Bremerton (“CPI-U-Seattle”) between October 2016 and October of the year prior to the assessment year.

1. Second Year Assessment: The Inflationary Factor shall be calculated using the lesser of three percent or the percentage change in the CPI-U-Seattle between October 2016 and October 2017.

2. Third Year Assessment: The Inflationary Factor shall be calculated using the lesser of six percent or the percentage change in the CPI-U-Seattle between October 2016 and October 2018.

3. Fourth Year Assessment: The Inflationary Factor shall be calculated using the lesser of nine percent or the percentage change in the CPI-U-Seattle between October 2016 and October 2019.

4. Fifth Year Assessment: The Inflationary Factor shall be calculated using the lesser of 12 percent or the percentage change in the CPI-U-Seattle between October 2016 and October 2020.

5. Sixth Year Assessment: The Inflationary Factor shall be calculated using the lesser of 15 percent or the percentage change in the CPI-U-Seattle between October 2016 and October 2021.

6. Seventh Year Assessment: The Inflationary Factor shall be calculated using the lesser of

18 percent or the percentage change in the CPI-U-Seattle between October 2016 and October 2022.

G. “New Benefit Areas” shall be added to the assessment roll on an annual basis, and will supersede the previous assessment for that parcel. A New Benefit Area is created when a parcel’s Net Building Square Footage increases as a result of either a new building or expansion of an existing building, as recorded by the King County Assessor’s Office. The Base Formula for a New Benefit Area will be calculated for the following assessment year using the most current available King County Assessor’s Office records.

No Inflationary Factor shall be assessed on a New Benefit Area in its first assessment year. In each subsequent assessment year, the Inflationary Factor for any New Benefit Area shall be the lesser of:

1. Three percent per year from the addition of the New Benefit Area to the assessment roll,
- or
2. The percentage change in the CPI-U-Seattle from October of the year prior to the addition of the New Benefit Area to the assessment roll to October of the year prior to the assessment year.

H. Rate Changes. Changes in assessment rates other than as described in this section shall only be authorized by ordinance consistent with RCW 35.87A.140 and with the approval of the Ratepayers Advisory Board and shall not occur more than one time per year.

Section 4. Billing Schedule. Special assessments shall be billed on a semi-annual basis. The Director of The City of Seattle’s Department of Finance and Administrative Services (“FAS Director”) may change the billing frequency by directive to an interval no more frequent than quarterly. The FAS Director shall mail a copy of a directive issued under this section to all ratepayers not less than 90 days before the new billing due date is to take effect.

Section 5. Deposit of Revenues. There is in the City Treasury’s Business Improvement Area Fund a separate subaccount designated the Ballard Business Improvement Area Account (called “the Account”). The following monies shall be deposited in the Account:

- A. All revenues from special assessments levied under this ordinance;

- B. All income to the City from public events financed with special assessments;
- C. Gifts and donations;
- D. Interest and all other income from the investment of Account deposits; and
- E. Reimbursements due to the Account.

Section 6. Delinquent Payments. If an assessment has not been paid within 30 days after its due date, the FAS Director shall send a reminder notice and add a \$5 processing fee. If the assessment is not paid within 60 days after its due date, a delinquency charge shall be added in the amount of ten percent of the assessment. All assessments that are not paid within 60 days of the due date shall also bear interest from the due date at 12 percent per annum. The FAS Director is authorized to refer any unpaid assessments to a collection agency or to bring an action to collect any unpaid assessments in any court of competent jurisdiction in King County.

Section 7. Notices. Notices of assessment, installment payments, or delinquency, and all other notices contemplated by this ordinance, may be sent by ordinary mail or delivered by the City to the address shown on the records of the FAS Director, and, if no address is shown there, to the address shown on the records of the County Assessor. Failure of the ratepayer to receive any mailed notice shall not release the ratepayer from the duty to pay the assessment on the due date and any interest, delinquency charges, and processing fees.

Section 8. Disputes. Any ratepayer aggrieved by the amount of an assessment or delinquency charge may on request obtain a meeting with the FAS Director. If not satisfied, the ratepayer may appeal the matter to the City's Hearing Examiner in the manner provided for a contested case under Chapter 3.02 of the Seattle Municipal Code. The ratepayer has the burden of proof to show that the assessment or delinquency charge is incorrect.

Section 9. Audit. The City may conduct random audits of ratepayers to ensure that assessments are being properly calculated and reported.

Section 10. Expenditures. Expenditures from the Account shall be made upon demand and presentation of documentation of allowable expenses to the FAS Director by the Program Manager and shall be used

exclusively for the programs as defined in Section 2 of this ordinance.

Section 11. Ratepayers Advisory Board. The Director of The City of Seattle’s Office of Economic Development (“OED Director”) shall appoint an interim Ratepayers Advisory Board comprised of ratepayers from the Ballard Business Improvement Area within 30 days of the effective date of this ordinance. The OED Director shall solicit recommendations from the ratepayers, and shall appoint the interim board from that list. The interim Ratepayers Advisory Board will recommend a permanent Ratepayers Advisory Board (the “Board”) within 90 days of the effective date of this ordinance. The composition of the Board shall be representative of the entire geographic area of the Ballard Business Improvement Area, as well as representative of all ratepayer classifications and sizes as well as residential representatives and commercial tenants. Specifically, no less than one-third of the members shall represent commercial ratepayers and no less than one-third of the members shall represent multi-family residential ratepayers.

The OED Director shall appoint the permanent Board members from the list recommended by the interim Ratepayers Advisory Board. The OED Director may appoint additional members to the Board beyond those recommended by the interim Ratepayers Advisory Board to ensure a broad representation of ratepayers, provided that the additional members so appointed do not exceed one-third of the entire membership of the Board.

The Board shall be responsible for adopting bylaws and policy guidelines; recommending approval of budgets, expenditures, and programs; and for providing advice and consultation to the FAS Director and to the Program Manager.

The Board shall meet at least once quarterly; recommend an annual work program and budget; address and discuss ratepayer concerns and questions regarding the Ballard Business Improvement Area programs; and sponsor an annual ratepayers’ meeting. At a minimum, meetings of the interim and permanent Boards shall be open to the public, with at least five days’ advance notice posted by the Program Manager on its website and also disseminated by any other means that the Program Manager generally uses to communicate.

At the annual ratepayers' meeting, the Board shall submit for approval its proposed work plan and budget for the next year, and its recommendation regarding whether to continue with the current Program Manager. The work plan, budget, and recommendation regarding whether to continue with the current Program Manager must be approved by a vote of the ratepayers attending the meeting and submitted to the FAS Director.

The Board and Program Manager shall evaluate the Ballard Business Improvement Area's programs and services and shall report their findings to the City Council when a request to modify or renew the Ballard Business Improvement Area is proposed, or in five years from the time of formation, whichever is sooner.

Section 12. Administration. The FAS Director shall administer the program for the City with authority to:

- A. Collect the special assessments; refund special assessments when overpaid or otherwise improperly collected; extend the deadline for payment; and waive delinquency charges, processing fees, and interest whenever the delinquency results from extenuating circumstances beyond the ratepayer's control, such as a casualty loss causing premature closure of the business or bankruptcy, or the total payment due to the City (exclusive of delinquency charges and interest) is \$10 or less;
- B. Calculate and collect the interest, delinquency charges, and processing fees for late payments;
- C. After receiving the recommendation of the Board, execute a program management contract with a Program Manager for a term of up to seven years; and
- D. Accept advance payment of assessments by ratepayers and donations for Ballard Business Improvement Area programs.

Section 13. Contract for Program Management. The FAS Director is authorized to contract with any local non-profit entity to act as the Program Manager. The Program Manager's duties, subject to the approval of the ratepayers at each annual meeting, will be to manage the day-to-day operations of the Ballard Business Improvement Area and to administer the projects and activities. It is the intent of the City Council that the FAS Director contract with the Ballard Alliance as the initial Program Manager.

Section 14. Commencement of Assessments. Assessments shall commence as of January 1, 2017, or on the effective date of this ordinance, whichever is later.

Section 15. Request to Disestablish. Upon a petition signed by ratepayers that would pay 60 percent of the proposed special assessments, the Ratepayers Advisory Board shall request that the City Council disestablish the Ballard Business Improvement Area in accordance with Chapter 35.87A RCW.

Section 16. Ratification and Confirmation. The making of contracts and expenditures and the sending of assessment notices pursuant to the authority and after passage but prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 17. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2016, and signed by me in open session in authentication of its passage this _____ day of _____, 2016.

President _____ of the City Council

Approved by me this _____ day of _____, 2016.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2016.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Exhibit A - Ballard Improvement Area