



selected creates a reasonable relation between the benefits derived by the property specially assessed, and the benefits derived by the City as a whole.

(3) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

**SECTION 3. NOTICE: OBJECTIONS.** Promptly after the filing of the engineer's report the recorder shall prepare a notice stating that such report is on file in his office subject to examination fixing the dates when the same was filed, the estimated probable cost of such proposed improvement, a brief statement of the area proposed to be assessed therefor, and notifying all persons interested to present their objections to said report, if any they have, before the council on a date specified in such notice not less than 10 days after the date of the first publication or posting, as hereinafter provided, of said notice.

The council shall specify in a resolution providing for the said improvement whether the notice provided for in this section shall be published or posted as herein provided. If the council shall declare notice be published, the recorder shall prepare the notice of publication containing the information above set forth, together with the names of the record owners of the property and a description thereof, either by street number or other legal description and cause the said notice to be published in a newspaper of general circulation, either daily or weekly, within the city; that publication shall take place at least twice prior to the hearing provided for therein. If the council shall determine to give notice by posting, the recorder shall prepare a notice containing the same information as provided for by published notice, one copy thereof shall be posted in the City Hall, and at least two copies thereof shall be posted within the confines of the area where the proposed improvement is to be carried out. In addition, the recorder shall cause to be mailed to the address of the record owner a copy of said notice. Said notices shall provide for the hearing before the common council, which may not be less than ten days from the date of the mailing or posting, whichever is later, of the said notices.

**SECTION 4. HEARINGS, ASSESSMENTS, INCREASE IN PROPOSED ASSESSMENTS.** If the council, after hearing the objections, if any there be, find such report to be reasonable and just, it may adopt the same or amend, and, as amended, adopt the same by ordinance, embodying such report. It may require a supplementary or further report from the City engineer or engineer employed by the city. When the council, after such hearing, shall have ascertained what it deems to be a fair, just and

proper assessment of benefits to the property it determines to be specially benefited, it may pass an ordinance specifying in detail such assessment, which ordinance may be passed at any time after the hearing hereinbefore specified. In order to avoid deficit assessment or rebates, or for any other reason deemed sufficient by the council, such ordinance specifying and levying assessments need not be passed until the work is completed and total costs determined. If the council deem it just and proper to increase the amount of any proposed assessment against any parcel of land embraced in said engineer's report, it shall fix a time for a further hearing with respect to such increase, cause the recorder to send a notice by mail to each person who is the record owner of, and known by the recorder to be interested in the property thus affected, stating what is proposed with respect to such property, and giving a date not less than ten days thereafter for the further hearing. After such hearing, the council may pass an ordinance assessing such increase.

SECTION 5. ALTERNATIVE METHODS OF FINANCING. When, in the opinion of the council, on account of topographical or physical layout, unusual or excessive public travel, or other character of work is involved, or when the council otherwise believes the situation warrants it, it may pay what it deems fair proportion of the cost of such improvement in relation to the benefits derived by the property directly benefited from general funds of the City, and the amount to be assessed to the property benefited shall be proportionately reduced. Nothing herein contained shall preclude the council from using other available means of financing improvements, including federal or state grant-in-aid, sewer service or other types of service charges, revenue bonds, general obligation bonds, or other legal means of finances. In the event any other such means of finance are used, the council may, in its discretion, levy special assessments hereunder to cover any part of the costs of the improvement not covered by such means.

SECTION 6. APPEAL. Any person feeling aggrieved by assessments made as herein provided may, within twenty days from the passage of the ordinance levying the assessment by the council, appeal therefrom to the circuit court of the state of Oregon for Curry County. Such appeal and the requirements and formalities thereof shall be heard governed and determined and the judgment thereon rendered and enforced so far as practicable in the manner provided for appeals from reassessments contained in Section 95-1905, Oregon Compiled Laws Annotated, as now or hereafter amended. The result of such appeal shall be a final and conclusive determination of the matter of such assessment, except with respect to the City's right of reassessment as provided herein.

SECTION 7. LIEN RECORDING, COLLECTION OF ASSESSMENTS. The Council, upon completion of the project shall adopt a resolution directing the recorder to enter in the docket of City liens a

statement of the respective amounts assessed upon each particular lot or parcel of land with the names of the record owners thereof. Upon such entry in the lien docket, the amounts so entered shall be immediately due and payable and shall be a lien and charge upon the respective lots, tracts, and parcels of land against which the same are placed. Such liens shall be prior to all other liens, except as otherwise provided by law. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within thirty days from the date of such entry.

The City of Brookings may proceed to foreclose as delinquent any lien thirty days after the same shall have been entered in the lien docket, as provided for foreclosures of liens in Title 9, Chapter 5, Oregon Compiled Laws annotated, as now or hereafter amended.

SECTION 8. MANNER OF DOING WORK. CONTRACTS, BIDS, BONDS. The council shall provide by resolution the time and manner of doing the work of such project, and may provide for the City to do the work itself, or may award the work on contract. In the event that the work is done under contract, bids shall be received after advertisement, for such time as the council may determine, on all such work, the estimated cost of which is more than \$500.00. The contract shall be let to the lowest responsible bidder, provided that the council shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory. The council shall provide for taking security by bond for the faithful performance of any contract let under its authority, and the provisions thereof, in case of default, shall be enforced by action in the name of the City of Brookings.

SECTION 9. DEFICIT ASSESSMENT. If the assessment is made before the total costs are known, and it be found that the amount assessed is insufficient to defray the expenses of the project, the council may by resolution declare such deficit and prepare a proposed deficit assessment. The recorder shall give notice thereof and of the hearing of objection thereto as above-described with reference to the original report, and the council upon such hearing shall make a just and equitable deficit assessment. Such deficit assessment shall be consolidated with the assessment in the lien docket.

SECTION 10. REBATE. If, upon the completion of the project it is found that any sum theretofore assessed therefor upon any property is more than sufficient to pay the cost thereof, the council must ascertain and declare the same, and when so declared it must be entered in the docket of city liens as a credit upon the appropriate assessment. If any such assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the payment of any portion of the rebate credit which exceeds the assessment by a warrant or check on the city treasurer.

SECTION 11. ABANDONMENT OF PROCEEDINGS. The council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consumation of such proceedings, and if liens have been assessed upon any property under this procedure, they shall be cancelled, and any payments made thereon shall be refunded to the payer, his assigns, or legal representatives.

SECTION 12. CURATIVE PROVISIONS. No such assessment shall be invalid by reason of a failure to give in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person or the entry of a name other than the name of such owner or other delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appear that reasonable notice has not been given of the hearing upon the proposed assessment or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the council shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 13. BONDING OF STREET IMPROVEMENTS AND SEWERS. The provisions of Title 95, Chapter 21, Oregon Compiled Laws Annotated, which is known as the "Barncroft Bonding Act", together with amendments or future amendments thereof, are hereby adopted and made a part hereof by reference.

SECTION 14. SUPERSEDES. Any word, term or provision contained in Ordinance No. 43, passed by the Council on the 1st day of May, 1953, which is inconsistent with this Ordinance is hereby superseded but, except as any word, term or provision of said Ordinance No. 43 shall be superseded by this Ordinance said Ordinance No. 43 shall remain in full force and effect.

SECTION 15. That Ordinance No. 44, passed by the Council on the 1st day of May, 1953, and Ordinance No. 45, passed by the Council on the 1st day of May, 1953, are hereby repealed except as to any action or thing heretofore taken and done under and by virtue of each thereof and as to any such action or thing done or taken under and by virtue thereof said ordinances remain in full force and effect but not otherwise.

SECTION 16. If any word, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by any Court of competent jurisdiction such decision of such Court shall not

affect the remainder of this Ordinance which shall continue in full force and effect thereafter notwithstanding such decision except as to the part so declared unconstitutional.

Read by title and in full this 14 day of July, 1953.

Read a second time by title this 11<sup>th</sup> day of August, 1953.

Passed by the Council this 8<sup>th</sup> day of Sept August, 1953.

Authenticated this 8<sup>th</sup> day of Sept August, (1953).

Robert O. Dimmick  
Robert O. Dimmick, Mayor

Passed by the Council this 8<sup>th</sup> day of Sept August, 1953.

Gladys Kanick  
Gladys Kanick, Recorder

