

AN ORDINANCE PRESCRIBING THE METHODS AND PROCEDURES FOR MAKING PUBLIC IMPROVEMENTS IN THE CITY OF TROUTDALE, FOR LEVYING AND COLLECTING SPECIAL ASSESSMENTS THEREFOR, AND FOR CREATION AND ENFORCEMENT OF ASSESSMENT LIENS: AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE:

SECTION 1. Initiation of Proceedings.

A. Whenever the Council shall deem it expedient to construct, alter, repair, improve, widen or extend any street, alley, sidewalk, parking, curbing, or any part thereof or to construct, alter or install street lights, or to construct, improve, or repair any sanitary or storm sewer or water line or any part thereof, or to acquire, establish, construct or reconstruct any off-street motor vehicle parking facility; or to construct, reconstruct or repair any flood control facility, or to construct, reconstruct, repair, or equip a park, playground or neighborhood recreation facility, for which it is anticipated that special assessments will be levied, it shall by motion direct the City Engineer or engineer retained by the City to make an investigation of such project and to submit a written report, containing the information hereinafter specified.

B. Whenever the owners of at least 60% of the front footage of the property abutting on one or both sides of at least 300 feet of road desire to form themselves into an improvement district for the purpose of accomplishing any of the objectives listed in paragraph A they may by written petition request the Council to direct the City Engineer to submit a report as specified in Paragraph A. The Council, if satisfied that the petition is signed by the owners of at least 60% of the front footage of the abutting property within the district specified in the petition, shall pass the requested motion unless by a vote of at least 2/3 of the councilmen present, the Council deems it not in the public interest to comply with such petition. The petition referred to herein must be filed with the recorder not less than three days prior to any regular meeting of the Council.

SECTION 2. Report of the Engineer

The City Engineer or the engineer retained by the City shall file with the Recorder within the time specified by the Council the report containing the following:

A. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

B. Estimated cost of the work to be done, including any legal, administrative and engineering costs attributable thereto, provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the Engineer may adopt the estimates of such agency.

C. An analysis of the extent to which the proposed improvement benefits the entire City and a recommendation as to the method of determining the project cost that will be borne by the entire City.

D. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

E. An estimate of the unit assessment cost of the improvement based upon the recommended method of assessment.

F. The description and assessed value of each lot, parcel of land, or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.

G. A statement of outstanding assessments against property to be assessed.

SECTION 3. Action on Engineers Report

After the Engineer's Report has been filed with the City Recorder, the Council may thereafter by motion approve the report, modify the report and approve it as modified, require the Engineer to supply additional or different information for such improvement, or it may abandon the improvement.

SECTION 4. Resolution and Notice of Hearing

After approving the Engineer's Report as submitted or modified, the Council shall, by resolution, declare its intention to make such improvement, provide the manner of carrying out the improvement and shall direct the Recorder to give notice of such improvement by two publications one week apart in a newspaper of general circulation within the City of Troutdale, and/or by posting at the City Hall and at two places within the benefited area, and by mailing copies of such notice to the owners to be assessed for the costs of such improvement. The notice shall be mailed, and posted, at least 10 days prior to the public hearing on the proposed improvement. Said notice shall contain the following:

- A. A statement describing the proposed improvement, the area to be served, and the intention of the Council to make such an improvement.
- B. The place and times at which the Engineer's Report on the proposed improvement may be examined.
- C. The date, time, and place of the public hearing on the proposed improvement.
- D. The procedure for presenting objections and remonstrances.
- E. The estimated total cost of the project or the cost of that portion of the project to be financed by assessments to benefited properties.
- F. The method of assessment and the estimated unit assessment rate.

SECTION 5. Hearing and Action on Improvement

If, prior to or during the hearing, written objections are received from owners representing two-thirds of the area to be assessed, the improvement proceedings shall be abandoned and shall not be subject to a further hearing for at least 6 months. The Council, after receiving objections from owners representing not more than two-thirds of the area to be assessed may adopt or amend the Engineer's Report and, as amended, adopt the same by resolution. Having by resolution created a local improvement district of the area to be benefited by the proposed improvement, the Council shall direct, in said resolution or by subsequent action the City Engineer or an engineer retained by the City to prepare detailed plans, specifications, and cost estimates for the proposed improvement.

SECTION 6. Advertisement and Contract

The Council shall review the final plans, specifications, and cost estimate and finding some to be consistent with preliminary plans and cost estimates adopted in the Engineer's Report, shall by resolution adopt the final plans and specifications and, direct City personnel to construct the proposed improvements or direct the City Recorder to advertise for bids on the project according to the final plans and specifications. The City shall provide for the bonding of all contractors 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 Troutdale.

If the Council finds, upon opening bids for the work of such improvement, that the lowest responsible bid is substantially in excess of the Engineer's estimate, it may, in its discretion, provide for holding a special hearing of objections to the proceeding with the improvement on the basis of such bid, and it may direct the City Recorder to publish one (1) notice thereof in a newspaper of general circulation in the City of Troutdale.

SECTION 7. Assessment

A. After the Council by ordinance has created a local improvement district, the Council shall direct the City Engineer, City Recorder or other person or firm designated by the Council to determine the proposed cost to each property benefited by the improvement. If assessment is to be made prior to construction of the improvement said cost determination shall be based upon estimates contained in the Engineer's Report and said determination of proposed individual and specific property assessments shall be known as the "Preliminary Preassessment Roll". If assessment is to be made following construction of the improvement said determination shall be based upon actual construction costs and related costs

and said determination of proposed individual and specific property assessments shall be known as the "Preliminary Assessment Roll".

B. The Council shall establish the date, time, and place at which a Board of Equalization will meet to equalize and adjust the Preliminary Preassessment Roll or the Preliminary Assessment Roll, and shall direct the City Recorder to mail and post or publish the notice of the proposed assessments and hearing for equalization of said assessments. Notices shall be mailed, published, or posted at least 10 days prior to the hearing.

C. The Council shall sit as Board of Equalization unless the Council appoints others to serve as a Board of Equalization. The Council shall establish the size of the Board of Equalization and the qualifications for appointment to the Board of Equalization.

D. The notice of preliminary assessment shall contain the following:

1. A brief description of the improvement.
2. The place and times at which the Preliminary Preassessment Roll or the Preliminary Assessment Roll can be examined.
3. The date, time, and place of the hearing on equalization of proposed assessments.
4. The procedure for presenting objections and remonstrances.
5. The individual and specific assessment proposed for the property owned by the recipients for the mailed notices.

SECTION 8. Hearing on Assessment Equalization

The board of Equalization shall hear all objections and remonstrances at the designated meeting or, failing to hear all objections and remonstrances within a reasonable period of time, shall adjourn the hearing to a time and place designated prior to adjournment. After hearing all objections and remonstrances the Board of Equalization shall at the hearing or at subsequent meetings, equalize the proposed assessments and present the revised and equalized assessment or preassessment roll to the Council within 60 days of the initial hearing.

SECTION 9. Final Assessment

A. The Council shall, by ordinance, levy, or amend and levy, the assessments or preassessments presented by the Board of Equalization said assessments to be then known as either "Final Assessment Roll" or "Final Preassessment Roll". Promptly after passage of the ordinance levying the final assessments, the Recorder shall send by registered or certified mail a notice of final assessment to all owners of property being assessed

B. The notice of final assessment shall contain the following:

1. A brief description of the improvement.
2. The procedure for cash payment or for applying for Bancroft financing.
3. The final assessment levied on property owned by the recipient.

SECTION 10. Increase in Equalized Assessment

If the Board of Equalization determines that equalization of assessments requires that one or more preliminary assessments be increased and if the Council concurs, the City Recorder shall by mail notify the property owners affected by the increase in proposed assessment. Said property owners shall be given a hearing before the Board of Equalization no sooner than 10 days from the date the notice is mailed.

SECTION 11. Method of Assessment

The Council in adopting a method of assessment of the costs of the improvement may:

A. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

B. Use any method of apportioning the sum to be assessed as in just and reasonable between the properties determined to be specially benefited.

C. Authorize payment by the City of all, or any part of, the cost of any such improvement, when in the opinion of the Council the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the improvement.

SECTION 12. Alternative Methods of Financing

Nothing contained in this ordinance shall preclude the Council from using any other available means of financing improvements, including Federal or State grants in aid, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement.

SECTION 13. Remedies

Subject to the curative provisions of Section 19 and the rights of the City to reassess as provided in Section 20 of this ordinance proceedings for writs of review and suits in equity may be filed not earlier than thirty days nor later than sixty days after the filing of written objections as provided herein. A property owner who has filed written objections with the City Recorder prior to the public hearing may have the right to apply for a writ of review based upon the City Council exercising its functions erroneously or arbitrarily or exceeding its jurisdiction to the injury of some substantial right of such owner if the facts supporting such claim have been specifically set forth in the written objections. A property owner who has filed written objections with the City Recorder prior to the public hearing may commence a suit for equitable relief based upon a total lack of jurisdiction on the part of the City; and if notice of the improvement shall not have been sent to the owner and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the City Recorder within thirty days after receiving notice or knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption or so as to affect the running of any statute of limitation. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the City Council to remedy or cure the alleged errors or defects.

SECTION 14. Lien Records and Foreclosure Proceedings

After passage of the assessment ordinance by the Council, the City Recorder shall enter in the Docket of City Liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon such entry in the Lien Docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of the City of Troutdale shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the State of Oregon permit. Interest shall be charged at the rate of Seven per cent (7) per annum until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance; and after expiration of thirty (30) days from the date of such assessment ordinance the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the State of Oregon; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property.

SECTION 15. Errors in Assessment Calculations

Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error in fact. If the Recorder shall find that there has been an error in fact, he shall recommend to the Council an amendment to the assessment ordinance to correct such error, and upon enactment of such

amendment, the City Recorder shall make the necessary correction in the Docket of City Liens and send a correct notice of assessment by registered or certified mail.

SECTION 16. Deficit Assessment

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Council may, by ordinance, declare such deficit and prepare a proposed deficit assessment. The Council shall set a time for a hearing of objections to such deficit assessment and shall direct the City Recorder to publish one (1) notice thereof in a newspaper of general circulation in the City of Troutdale. After such hearing the Council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the Docket of City Liens as provided by this ordinance, and notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with applicable sections of this ordinance.

SECTION 17. Rebates

If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the Council must ascertain and declare the same by ordinance, and when so declared, the excess amounts must be entered on the Lien Docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof which exceed the amount unpaid on the original assessment.

SECTION 18. Abandonment of Proceedings

The Council shall have full power and authority to abandon and rescind proceedings for improvements made under this ordinance at any time prior to the final completion of such improvements; and if liens have been assessed upon any property under such procedure, they shall be cancelled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or legal representative.

SECTION 19. Curative Provisions

No improvement assessment shall be rendered invalid by reason of a failure of the Engineer's Report to contain all of the information required by Section 2 of this ordinance, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the Lien Docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by this ordinance, or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 20. Reassessment

Whenever any assessment, deficit or reassessment for any improvement which has been made by the City has been or shall be, set aside, annulled declared or rendered void, or its enforcement restrained by any Court of this State, or any Federal Court having jurisdiction thereof, or when the Council shall be in doubt as to the validity of such assessment, deficit assessment, or reassessment, or any part thereof, then the Council may make a reassessment in the manner provided by the laws of the State of Oregon.

SECTION 21. Bancroft Bonding Act

The provisions of Oregon Revised Statutes Sections 223.205 through 223.300, commonly known as the Bancroft Bonding Act, together with amendments or future amendments thereof, are hereby adopted and made a part thereof by reference.

SECTION 22. Repeal Prior Ordinances

Ordinance No. 29 and No. 128 and all other Ordinances, or part of ordinances of the City of Troutdale in conflict herewith are hereby repealed.

SECTION 23. Emergency Clause

The Council desires and deems it necessary for the preservation of the health, peace and safety of the City of Troutdale that this ordinance take effect at once, and therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the Council this 27th day of October, 1970.

YEAS: 3

NAYS: 0

Approved and signed by the Mayor this 27th day of October, 1970.

ATTEST:

/s/ GLENN E. OTTO
Mayor

/s/ TRULY V. WRIGHT
City Recorder

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ORDINANCE NO. 159

AN ORDINANCE PRESCRIBING THE METHODS AND PROCEDURES FOR MAKING PUBLIC IMPROVEMENTS IN THE CITY OF TROUTDALE, FOR LEVYING AND COLLECTING SPECIAL ASSESSMENTS THEREFOR, AND FOR THE CREATION AND ENFORCEMENT OF ASSESSMENT LIENS: AND DECLARING AN EMERGENCY.

Be it ordained by the Common Council of the City of Troutdale .

SECTION 1. Initiation of Proceedings

A. Whenever the Council shall deem it expedient to construct, alter, repair, improve, widen or extend any street, alley, sidewalk, parking, curbing, or any part thereof, or to construct, alter or install street lights, or to construct, improve, or repair any sanitary or storm sewer or water line or any part thereof, or to acquire, establish, construct or reconstruct any off-street motor vehicle parking facility; or to construct, reconstruct or repair any flood control facility, or to construct, reconstruct, repair, or equip a park, playground or neighborhood recreation facility, for which it is anticipated that special assessments will be levied, it shall by motion direct the City Engineer or engineer retained by the City to make an investigation of such project and to submit a written report, containing the information hereinafter specified.

B. Whenever the owners of at least 60% of the front footage of the property abutting on one or both sides of at least 300 feet of road desire to form themselves into an improvement district for the purpose of accomplishing any of the objectives listed in paragraph A they may by written petition request the Council to direct the City Engineer to submit a report as specified in paragraph A. The Council, if satisfied that the petition is signed by the owners of at least 60% of the front footage of the abutting property

within the district specified in the petition, shall pass the requested motion unless by a vote of at least 2/3 of the councilmen present, the Council deems it not in the public interest to comply with such petition. The petition referred to herein must be filed with the recorder not less than three days prior to any regular meeting of the Council.

SECTION 2. Report of the Engineer

The City Engineer or the engineer retained by the City shall file with the Recorder within the time specified by the Council the report containing the following:

A. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.

B. Estimated cost of the work to be done, including any legal, administrative and engineering costs attributable thereto, provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the Engineer may adopt the estimates of such agency.

C. An analysis of the extent to which the proposed improvement benefits the entire City and a recommendation as to the method of determining the project costs that will be borne by the entire City.

D. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.

E. An estimate of the unit assessment cost of the improvement based upon the recommended method of assessment.

F. The description and assessed value of each lot, parcel of land, or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.

G. A statement of outstanding assessments against property to be assessed.

SECTION 3. Action on Engineers Report

After the Engineer's Report has been filed with the City Recorder, the Council may thereafter by motion approve the report, modify the report and approve it as modified, require the Engineer to supply additional or different information for such improvement, or it may abandon the improvement.

SECTION 4. Resolution and Notice of Hearing

After approving the Engineer's Report as submitted or modified, the Council shall, by resolution, declare its intention to make such improvement, provide the manner and method of carrying out the improvement and shall direct the Recorder to give notice of such improvement by two publications one week apart in a newspaper of general circulation within the City of Troutdale, and/or by posting at the City Hall and at two places within the benefited area, and by mailing copies of such notice to the owners to be assessed for the costs of such improvement. The notice shall be mailed, and posted, at least 10 days prior to the public hearing on the proposed improvement. Said notice shall contain the following:

A. A statement describing the proposed improvement, the area to be served, and the intention of the Council to make such an improvement.

B. The place and times at which the Engineer's Report on the proposed improvement may be examined.

C. The date, time, and place of the public hearing on the proposed improvement.

D. The procedure for presenting objections and remonstrances.

E. The estimated total cost of the project or the cost of that portion of the project to be financed by assessments to benefitted properties.

F. The method of assessment and the estimated unit assessment rate.

SECTION 5. Hearing and Action on Improvement

If, prior to or during the hearing, written objections are received from owners representing two-thirds of the area to be assessed, the improvement proceedings shall be abandoned and shall not be subject to a further hearing for at least 6 months. The Council, after receiving objections from owners representing not more than two-thirds of the area to be assessed may adopt or amend the Engineer's Report and, as amended, adopt the same by resolution. Having by resolution created a local improvement district of the area to be benefitted by the proposed improvement, the Council shall direct, in said resolution or by subsequent action, the City Engineer or an engineer retained by the City to prepare detailed plans, specifications, and cost estimates for the proposed improvement.

SECTION 6. Advertisement and Contract

The Council shall review the final plans, specifications, and cost estimate and finding same to be consistent with preliminary plans and cost estimates adopted in the Engineer's Report, shall by resolution adopt the final plans and specifications and, direct city personnel to construct the proposed improvements or direct the City Recorder to advertise for bids on the project according to the final plans and specifications. The City shall provide for the bonding of all contractors 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 Troutdale.

If the Council finds, upon opening bids for the work of such improvement, that the lowest responsible bid is substantially in excess of the

Engineer's estimate, it may, in its discretion, provide for holding a special hearing of objections to the proceeding with the improvement on the basis of such bid, and it may direct the City Recorder to publish one (1) notice thereof in a newspaper of general circulation in the City of Troutdale.

SECTION 7. Assessment

A. After the Council by ordinance has created a local improvement district, the Council shall direct the City Engineer, City Recorder or other person or firm designated by the Council to determine the proposed cost to each property benefited by the improvement. If assessment is to be made prior to construction of the improvement said cost determination shall be based upon estimates contained in the Engineer's Report and said determination of proposed individual and specific property assessments shall be known as the "Preliminary Preassessment Roll." If assessment is to be made following construction of the improvement said determination shall be based upon actual construction costs and related costs and said determination of proposed individual and specific property assessments shall be known as the "Preliminary Assessment Roll."

B. The Council shall establish the date, time, and place at which a Board of Equalization will meet to equalize and adjust the Preliminary Preassessment Roll or the Preliminary Assessment Roll, and shall direct the City Recorder to mail and post or publish the notice of the proposed assessments and hearing for equalization of said assessments. Notices shall be mailed, published, or posted at least 10 days prior to the hearing.

C. The Council shall sit as Board of Equalization unless the Council appoints others to serve as a Board of Equalization. The Council shall establish the size of the Board of Equalization and the qualifications for appointment to the Board of Equalization.

D. The notice of preliminary assessment shall contain the following:

1. A brief description of the improvement.

2. The place and times at which the Preliminary Preassessment Roll or the Preliminary Assessment Roll can be examined.
3. The date, time, and place of the hearing on equalization of proposed assessments.
4. The procedure for presenting objections and remonstrances.
5. The individual and specific assessment proposed for the property owned by the recipients of the mailed notices.

SECTION 8. Hearing on Assessment Equalization

The Board of Equalization shall hear all objections and remonstrances at the designated meeting or, failing to hear all objections and remonstrances within a reasonable period of time, shall adjourn the hearing to a time and place designated prior to adjournment. After hearing all objections and remonstrances the Board of Equalization shall at the hearing or at subsequent meetings, equalize the proposed assessments and present the revised and equalized assessment or preassessment roll to the Council within 60 days of the initial hearing.

SECTION 9. Final Assessment

A. The Council shall, by ordinance, levy, or amend and levy, the assessments or preassessments presented by the Board of Equalization said assessments to be then known as either "Final Assessment Roll" or "Final Preassessment Roll." Promptly after passage of the ordinance levying the final assessments, the Recorder shall send by registered or certified mail a notice of final assessment to all owners of property being assessed.

B. The notice of final assessment shall contain the following:

1. A brief description of the improvement.

2. The procedure for cash payment or for applying for Bancroft financing.
3. The final assessment levied on property owned by the recipient.

SECTION 10. Increase in Equalized Assessment

If the Board of Equalization determines that equalization of assessments requires that one or more preliminary assessments be increased and if the Council concurs, the City Recorder shall by mail notify the property owners affected by the increase in proposed assessment. Said property owners shall be given a hearing before the Board of Equalization no sooner than 10 days from the date the notice is mailed.

SECTION 11. Method of Assessment

The Council in adopting a method of assessment of the costs of the improvement may:

- A. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.
- B. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.
- C. Authorize payment by the City of all, or any part of, the cost of any such improvement, when in the opinion of the Council the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the improvement.

SECTION 12. Alternative Methods of Financing

Nothing contained in this ordinance shall preclude the Council from using any other available means of financing improvements, including Federal

or State grants in aid, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement.

SECTION 13. Remedies

Subject to the curative provisions of Section 19 and the rights of the City to reassess as provided in Section 20 of this ordinance, proceedings for writs of review and suits in equity may be filed not earlier than thirty days nor later than sixty days after the filing of written objections as provided herein. A property owner who has filed written objections with the City Recorder prior to the public hearing may have the right to apply for a writ of review based upon the City Council exercising its functions erroneously or arbitrarily or exceeding its jurisdiction to the injury of some substantial right of such owner if the facts supporting such claim have been specifically set forth in the written objections. A property owner who has filed written objections with the City Recorder prior to the public hearing may commence a suit for equitable relief based upon a total lack of jurisdiction on the part of the City; and if notice of the improvement shall not have been sent to the owner and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the City Recorder within thirty days after receiving notice or knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption or so as to affect the running of any statute of limitation. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the City Council to remedy or cure the alleged errors or defects.

SECTION 14. Lien Records and Foreclosure Proceedings

After passage of the assessment ordinance by the Council, the City Recorder shall enter in the Docket of City Liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with

a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon such entry in the Lien Docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of the City of Troutdale shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the State of Oregon permit. Interest shall be charged at the rate of seven per cent (7%) per annum until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance; and after expiration of thirty (30) days from the date of such assessment ordinance the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the State of Oregon; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property.

SECTION 15. Errors in Assessment Calculations

Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error in fact. If the Recorder shall find that there has been an error in fact, he shall recommend to the Council an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the City Recorder shall make the necessary correction in the Docket of City Liens and send a correct notice of assessment by registered or certified mail.

SECTION 16. Deficit Assessment

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Council may, by ordinance, declare such deficit and prepare a proposed deficit assessment. The Council shall set a time for a hearing of objections to such deficit assessment and shall direct the City Recorder to publish one (1)

notice thereof in a newspaper of general circulation in the City of Troutdale. After such hearing the Council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the Docket of City Liens as provided by this ordinance, and notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with applicable sections of this ordinance.

SECTION 17. Rebates

If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the Council must ascertain and declare the same by ordinance, and when so declared, the excess amounts must be entered on the Lien Docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof which exceed the amount unpaid on the original assessment.

SECTION 18. Abandonment of Proceedings

The Council shall have full power and authority to abandon and rescind proceedings for improvements made under this ordinance at any time prior to the final completion of such improvements; and if liens have been assessed upon any property under such procedure, they shall be cancelled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or legal representatives.

SECTION 19. Curative Provisions

No improvement assessment shall be rendered invalid by reason of a failure of the Engineer's Report to contain all of the information required by Section 2 of this ordinance, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment

ordinance, the Lien Docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by this ordinance, or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 20. Reassessment

Whenever any assessment, deficit or reassessment for any improvement which has been made by the City has been or shall be, set aside, annulled, declared or rendered void, or its enforcement restrained by any Court of this state, or any Federal Court having jurisdiction thereof, or when the Council shall be in doubt as to the validity of such assessment, deficit assessment, or reassessment, or any part thereof, then the Council may make a reassessment in the manner provided by the laws of the State of Oregon.

SECTION 21. Bancroft Bonding Act

The provisions of Oregon Revised Statutes Sections 223.205 through 223.300, commonly known as the Bancroft Bonding Act, together with amendments or future amendments thereof, are hereby adopted and made a part hereof by reference.

SECTION 22. Repeal Prior Ordinances

Ordinance No. 29 and No. 128 and all other ordinances, or part of ordinances of the City of Troutdale in conflict herewith are hereby repealed.

SECTION 23. Emergency Clause

The Council desires and deems it necessary for the preservation of the health, peace and safety of the City of Troutdale that this ordinance take effect at once, and therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the Council this 27th day of October, 1970.

AYES: 3

NAYS: 0

Approved by the Mayor on the 27th day of October, 1970.



Mayor

ATTEST:

Truly D. Wright
Recorder