

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 738

AN ORDINANCE ADOPTING PROCEDURES FOR THE MAKING OF LOCAL IMPROVEMENTS, LOCAL IMPROVEMENT ASSESSMENTS, AND ENFORCEMENT OF LOCAL IMPROVEMENT ASSESSMENT LIENS, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 724, adopted by the City Council July 16, 1980, the city charter was amended to permit the City Council to adopt local improvement procedures different from those previously prescribed by the city charter, which charter amendment was duly ratified and approved by the legal voters of the City of Sherwood at election on September 16, 1980; and

WHEREAS, the Council finds that alternate procedures should be provided for the making of local improvements and assessment of the costs thereof to benefitted property;

NOW, THEREFORE,

THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

- Section 1. Definitions
- Section 2. Description of Real Property
- Section 3. Unknown Owners, Mistake in Names of Owners
- Section 4. Council Powers
- Section 5. Formation of District, Declaration of Intention to Make Improvement
- Section 6. Notice
- Section 7. Remonstrance
- Section 8. Ordering Improvement
- Section 9. Bids
- Section 10. Assessment
- Section 11. Spreading Assessment, Liens
- Section 12. Deficit Assessments and Excess Assessments
- Section 13. Abandonment of Proceedings
- Section 14. Curative Provisions
- Section 15. Filing of Documents
- Section 16. Effective Date

Section 1 - Definitions: As used in this ordinance, unless the context requires otherwise, (a) the term "local improvement", "council", "recorder", "owner", and "lot" shall have the meaning given those terms by Oregon Revised Statutes, Section 223.387; (b) the term "engineer" or "city engineer" means the person or firm designated or engaged by the city to be in charge of engineering and related work of the city.

Section 2 - Description of

Real Property: Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment for a special improvement district, foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing special assessments for special benefits to such property.

Section 3 - Unknown Owners, Mistake  
in Names of Owners:

: If the owner of any land is unknown, such land may be assessed to "unknown owner" or "unknown owners". If the property is correctly described, no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner.

Where the name of the true owner, or the owner of record, of any parcel of real property is given, the assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey employing such description a court of equity would hold it to be good and sufficient.

Section 4 - Council Powers:

Subject to the limitations provided by Section 237 of the charter of the City of Sherwood, the City Council, whenever it may deem it expedient, is authorized and empowered to order any improvement, to determine the character, kind and extent of the improvement to levy and collect an assessment upon all lots of land specially benefitted by the improvement, and to determine what lands are specially benefitted and the amount to which each lot is benefitted, and to select a manner and method of assessment which the council finds has a reasonable relationship to the benefits derived by the property assessed.

Section 5 - Formation of District, Declaration of Intention to Make an Improvement:

Whenever the City Council shall deem it expedient or necessary to order any improvement, it shall require from the city engineer preliminary plans and specifications for the improvement and estimates of the work to be done and the probable cost thereof, together with a statement of the lots, parts of lots and parcels of land to be benefitted and the percentage of the total cost of the improvement which each of such lots, parts of lots, and parcels of land should pay on account of the benefits to be derived. The recorder shall have such plans and specifications available for inspection. If the City Council shall find such plans, specifications and estimates to be satisfactory, it shall approve the same and shall determine the boundaries of the district benefitted and proposed to be assessed for such improvement. The City Council shall, by resolution or ordinance, declare its intention to make such improvement, describing the probable total cost and also defining the boundaries of the assessment district to be benefitted and assessed.

The action of the City Council in creating such an assessment district, declaring its intention to make any improvement therein, directing the publication of notice approving and adopting the plans and specifications and estimates of the city engineer, and determining the district benefitted and to be assessed, may all be done in one and the same resolution or enactment.

Section 6 - Notice: The resolution of the City Council declaring its intention to make the proposed improvement shall be published at least twice in a newspaper of general circulation published in the city, provided that the first publication shall be not less than fifteen days prior to the time when all persons interested may present their objections to the improvement. Such notice shall specify the time and place where the council will hear and consider objections or remonstrances to the proposed improvement by any parties aggrieved thereby.

Section 7 - Remonstrance: Within fifteen days from the date of first publication of the notice required to be published in Section 6 hereof, the owners of seventy-five percent or more in area of the property within the assessment district may make and file with the recorder written objections or remonstrances against the proposed improvement, and such objections or remonstrances shall be a bar to any further proceeding in the making of such improvement pursuant to this ordinance for a period of six months, unless the owners of one-half or more of the property affected shall subsequently petition therefor. Further proceedings to make the improvement after expiration of the period of bar shall require re-publication of notice of intention to make the improvement and those reinstated proceedings shall likewise be subject to bar by remonstrance pursuant to this section. (Charter Sec. 237)

Section 8 - Ordering Improvement: If no such remonstrance as described in Section 7 is made or filed with the recorder within the time designated, the City Council shall be deemed to have acquired jurisdiction to order the improvements to be made, and the City Council shall thereafter provide by ordinance for the making of such improvements, which shall substantially conform in all reasonable particulars to the plans and specifications previously adopted.

Section 9 - Bids: When any improvement is ordered, the City Administrator or recorder, upon instructions from the City Council, shall obtain from the engineer final plans and specifications for bidding and shall invite proposals for making the same. The contract shall be awarded to the lowest responsible bidder for either the whole of the improvement or such part as will not materially conflict with the completion of the remainder. The City Council shall have the right to reject any or all proposals received. If all proposals shall be rejected, the City Council shall have the power by resolution duly adopted to order that such improvement, or any portion thereof, may be made under the direction of the City Council by purchasing the materials and hiring the labor.

The City Council shall have the power to provide for the proper inspection and supervision of all work done and to do any other act to secure the faithful carrying out and the completion of all contracts, and the making of all improvements in strict compliance with the ordinances and specifications therefor, and shall have power to direct that the cost of the improvement or any portion thereof shall be paid for by the city generally.

The requirements of Oregon Revised Statutes, Chapter 279, insofar as applicable to the work proposed to be done in the city, shall govern the bidding, contracting and performance of the work, including pre-qualification of bidders, payment and performance bonds, and enforcement of the provisions thereof.

Section 10 - Assessment: Upon signing a contract or upon a determination by the City Council to make the improvement under its own supervision by purchasing the material and hiring labor, or as soon thereafter as is reasonably convenient, the City Council shall determine whether the property benefitted shall bear all or a portion of the cost and shall direct the city engineer to apportion and assess the cost of making such improvement upon the lots, parts of lots, and parcels of land within the assessment district in accordance with the special and peculiar benefits derived by each lot, part of lot, and parcel of land.

The recorder shall cause to have mailed, or cause to have personally delivered to the owner of each lot proposed to be assessed, a notice of such proposed assessment, which notice shall state the amount of the assessment proposed on that property and shall state a date by which time objections shall be filed with the recorder. Such notice shall further require that any such objection shall state the grounds thereof. The City Council shall consider the city engineer's estimates of assessments and all objections thereto filed with the recorder, and without any further notice may adopt, correct, modify or revise the proposed assessments, and shall determine the amount to be charged against each lot within the district according to the special and peculiar benefits accruing thereto from the improvement.

If there be no contract let for the accomplishment of the work, the total estimate of the city engineer

shall be considered to be the contract price for the improvement district.

In any event, whether there be a contract price arising from a bona fide contract, or whether the estimate of the city engineer be used as hereinabove provided, there shall be added to said contract price the cost of right-of-way and expenses of condemning the land, all costs of engineering, superintendence, advertising, and legal expenses, and also any and all other necessary and proper expenses incurred, which additional amounts shall be and do become a part of the amounts to be assessed against each lot, part of lot, and parcel of land benefitted by the improvement.

Section 11 - Spreading Assessment, Liens:

The assessment as adopted by the City Council against each lot or parcel of land shall be declared by ordinance and the recorder shall thereupon enter the same in the lien docket of the city, each improvement district estimate and assessment being maintained in a separate docket from other prior or subsequent estimates and assessments. Assessments shall thereupon become a lien upon the property assessed from and after the passage of the ordinance spreading the same and entry in the appropriate city lien docket. The city may thereafter enforce collection of such assessments as provided by Oregon Revised Statutes, Sections 223.505 to 223.650.

Section 12 - Deficit Assessments and Excess Assessments:

If the initial assessment has been made on the basis of estimated cost and upon completion of the work the cost is found to be greater than the estimate, the city council may make a deficit assessment for the additional cost. Proposed assessments upon respective lots within the assessment district for the proportionate share of the deficit shall be made, and notices of such assessments shall be given as provided with respect to the original assessment as hereinabove set forth, and all objections filed with the city clerk within the time limited therefor shall be considered and determination of the deficit assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment, and the deficit assessment with respect to each lot and block shall be finally determined by the City Council and spread by ordinance as in the case of the initial assessment.

If assessments have been made on the basis of estimated cost and upon completion of the work the cost is found to be less than the estimate, the excess assessment shall be reapportioned and credited to each lot and block according to the manner in which the original assessment was computed.

Section 13 - Abandonment of Proceedings:

The City Council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consummation 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 representative.

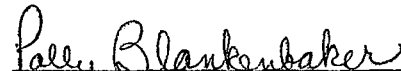
Section 14 - Curative Provisions: No assessment shall be invalid by reason of a failure to give in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket, or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land, or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person having a lien upon or interest in the property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appears that reasonable notice has not been given of the hearing upon the proposed improvement or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the City Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

Section 15 - Filing of Documents  
Required : All official specifications, plans, bids, acceptances, copies of purchase orders, and other documents forming part of the "public improvement file" shall be maintained at all times in the office of the city recorder and be available for public inspection.

Section 16 - Effective Date: Inasmuch as it is necessary that the procedure set forth in this ordinance be immediately available for use in connection with projects now being proposed to the City Council, an emergency is hereby declared to exist and this ordinance shall become effective upon its passage by the council and approval by the mayor. This ordinance shall not affect the procedures with respect to local improvement districts formed prior to the date of enactment of this ordinance.

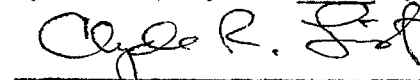
PASSED:

By the Council, by unanimous vote of all council members present, after being read three times by caption this 27 day of May, 1981.

  
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Recorder - City of Sherwood

APPROVED:

By the Mayor, this 27 day of May, 1981.

  
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Mayor - City of Sherwood