

**AFFIDAVIT OF POSTING  
ORDINANCE CB-0-118-89**


STATE OF OREGON                    )  
  )  
COUNTIES OF CLACKAMAS        )  
  )  
  )  
  )  
  )  
CITY OF WILSONVILLE         )

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On the 10th day of May, 1989, I caused to be posted copies of the attached Ordinance CB-O-119-89, an Ordinance repealing Wilsonville Code, Chapter 3, Public Improvements, Section 3.210 to 3.220 and adding to Chapter 3, Public Improvements, new Sections 3.210 to 3.294, in the following four public and conspicuous places of the City, to wit:

- WILSONVILLE CITY HALL
- WILSONVILLE POST OFFICE
- LOWRIE'S FOOD MARKET
- KOPPER KITCHEN

The ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 15th day of May, 1989.

  
\_\_\_\_\_  
VERA A. ROJAS, City Recorder

Subscribed and sworn to before me  
this 10th day of May, 1989.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF OREGON

My Commission expires: 8-23-89

ORDINANCE NO. 350

AN ORDINANCE REPEALING WILSONVILLE CODE, CHAPTER 3, PUBLIC IMPROVEMENTS, SECTION 3.210 TO 3.220 AND ADDING TO CHAPTER 3, PUBLIC IMPROVEMENTS, NEW SECTIONS 3.210 TO 3.294.

The City of Wilsonville Ordains as follows:

1. Wilsonville Code, Chapter 3, Sections 3.210 to 3.220 are hereby repealed.
2. The City has received inquiries regarding local improvement districts in conjunction with proposed development. Therefore in the best interest of its citizens in efficient and economic administration of local improvement projects and to prevent unnecessary delay in construction an emergency is declared.
3. The Wilsonville Code, Chapter 3, is hereby amended by adding the following:

Section 3.210: INDEX TO PROCEDURES FOR LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sections:

3.212	Initiating improvements.
3.214	Engineer's report.
3.218	Financial investigation report
3.222	Action on engineer's report and financial investigation report.
3.226	Emergencies.
3.230	Resolution and notice of hearing.
3.234	Manner of doing work.
3.238	Hearing.
3.242	Call for bids.
3.246	Assessment method and alternative methods of financing.
3.250	Assessment ordinance.
3.254	Notice of assessment.
3.258	Lien record and foreclosure proceedings.
3.262	Error in assessment calculation.
3.274	Remedies.
3.278	Abandonment of proceedings.
3.282	Curative provisions.
3.286	Reassessment.
3.290	Reapportionment of assessments.
3.294	Public Works standards.

3.212 Initiating improvements. (1) Whenever the Council shall deem it necessary to make any street, sewer, water line, traffic signal, sidewalk, parking, curbing, drain, or other local improvement defined in ORS 223.387 be paid for in whole or in part by special assessment according to benefits conferred, the Council shall declare by

resolution that it intends to make the improvement and direct the City Engineer or an engineer retained by the City to make a survey of the improvement and file a written report with the City Recorder and in accordance with Section 3.218 direct the Finance Director to prepare a financial investigation report, or

(2) When owners of 66 2/3% of the property that will benefit by improvements defined in Subsection (1) request by written petition that the Council initiate an improvement, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer or an engineer retained by the City to make a survey of the improvement and file a written report with the City Recorder and in accordance with Section 3.218 direct the Finance Director to prepare a financial investigation report. Provided, however, that petitioners shall after the Council's declaration and before the Engineer begins his report, deposit with the City a cash deposit or other financial assurances acceptable to the city, in such amount as the City Engineer shall deem reasonable to defray the City's cost of administration, survey, design, preliminary engineering mapping, and any other action necessary to the processing of the request. (Ord. No. 350, 5/15/89)

3.214 Engineer's Report. Unless the Council directs otherwise, the engineer's report shall contain the following:

(1) A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for payment of the cost. The map or plat shall include all existing and future improvements reasonably believed necessary to insure the proper functioning of the improvements proposed.

(2) An estimate of the probable cost of the improvement, including engineering, legal, and administrative costs.

(3) An estimate of the unit cost of the improvement to the benefited properties per square foot, per front foot, or another unit, or combination of units, of cost.

(4) A recommendation concerning the method of assessment to be used to arrive at a fair apportionment of the whole or a portion of the cost of the improvement to benefited properties.

(5) A description of each lot, parcel of land, or portion of land to be benefited with names of the record owners and, when readily available, names of contract purchasers as shown on books and records of the Washington and/or Clackamas County Tax Department (s). To describe each lot or parcel of land under provisions of this section, it shall be sufficient to use the tax account number or the map and tax lot numbers assigned to the property by the tax department (s) of Washington and/or Clackamas County. (Ord. No. 350, 5/15/89)

3.218 Financial investigation report. Where Bancroft Bonding is proposed as a means of project financing, in whole or in part, and unless the Council directs otherwise, the Finance Director will prepare a financial investigation report. The report will contain the following:

- ( 1) Assessed valuation of land;
- ( 2) Number of vacant lots or description of unused lands in area affected;
- ( 3) Number of similar lots held by the city through foreclosure;
- ( 4) Delinquency rate of assessments and taxes in the area;

- ( 5) Real estate value trends in the area;
- ( 6) Tax levy trends and potential financial impact on improvement district;
- ( 7) Conformance of the project to the City's Comprehensive Plan;
- ( 8) Attitude of property owners toward the project;
- ( 9) Status of municipal debt;
- (10) Cost of financing;
- (11) Creditworthiness of petitioners.

(Ord. No. 350, 5/15/89)

3.222 Action on engineer's report and financial investigation report. After the engineer's and the financial investigation report are filed with the City Recorder, the Council may by resolution approve the reports or approve them as modified, require the City Engineer or Finance Director to supply additional or different information for the improvement, or abandon the improvement. (Ord. No. 350, 5/15/89)

3.226 Emergencies. In the event the Council declares by unanimous vote that an emergency exists and that an improvement is essential to the welfare of the City, the procedure described in Sections 3.212 to 3.218 shall be followed, except that the Council may then declare its intention to initiate the improvement at any time and the engineer's report shall be completed and construction work shall commence as soon as is reasonably possible. (Ord. No. 350, 5/15/89)

3.230 Resolution and notice of hearing. After the council has approved the engineer's report and financial investigation report as submitted or as modified, the Council shall declare by resolution that it intends to make the improvement. The City Recorder shall forthwith give notice of the proposed improvement by posting the notice in the City Hall and by sending a copy of the notice by certified mail, addressed to the last known address of the person currently assessed for the properties to be benefited as shown by the records of the Washington and/or Clackamas County Assessor (s), that a hearing will be held to hear objections, if any to the proposed improvement.

The notice must be mailed and posted at least ten days prior to the hearing.

The notice shall contain the following information and such other information that may be necessary to explain the improvement and procedure:

- (1) A brief description of the project;
- (2) The intent to improve;
- (3) Estimated total cost and cost to each property of the improvement;
- (4) Date, time, and place of the hearing;
- (5) Right to present objections or support to the project at the hearing. (Ord. No. 350, 5/15/89)

3.234 Manner of doing work. The Council may provide in the improvement resolution that the construction work may be done in whole or in part by the City, by contract, by another governmental agency, or by a combination thereof. (Ord. No. 350, 5/15/89)

3.238 Hearing. If remonstrances are received from or made by owners representing 2/3 or more of the area to be assessed, the improvement proceeding shall be abandoned and shall not be subject to further hearing for at least three (3) months. If remonstrances are less than the amount required to suspend the proposed improvement, the

Council may by motion at the time of the hearing or within 120 days thereafter order the improvement carried out in accordance with the resolution. (Ord. No. 350, 5/15/89)

3.242 Call for bids. The Council may direct the City Engineer to prepare plans, specifications and then advertise for bids for construction of all or part of the improvement project. If part of the improvement work is to be done under contract bids, the Council shall proceed in accordance with procedures of state law for public contracting. (Ord. No. 350, 5/15/89)

3.246 Assessment method and alternative methods of financing.

(1) The Council, in adopting a method of assessing the cost of the improvement, may:

- (a) Use any just and reasonable method to determine the extent of an improvement district consistent with benefits derived.
- (b) Use any just and reasonable method to apportion the sum to be assessed among the benefited properties.
- (c) Authorize payment by the City of all or part of the cost of an improvement when in the opinion of the Council the topographical or physical conditions, unusual or excessive public travel, or another character of the work warrant only partial payment or no payment of the cost by owners of benefited properties. Such authorized payment by the City of a part of the cost of the improvement shall be stated in a fixed dollar amount.

(2) If some lots in a subdivision are of questionable marketability, the City may require security from the owner prior to award of bids or project construction. Such security may be, but is not limited to, a bond or deposit of collateral. (Ord. No. 350, 5/15/89)

(3) The Council may elect to provide Bancroft bonding to all or any part of the improvement project. The balance of the project not Bancrofted must be secured to the City in a form acceptable to the City Finance Director prior to award of bids or project construction.

(4) Nothing contained in this section shall preclude the Council from using other means of financing improvements, including federal and state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or other legal means of financing. If other means of financing are used, the Council may levy special assessments according to benefits derived to cover any remaining cost. (Ord. No. 350, 5/15/89)

3.250 Assessment ordinance. (1) After the work is done and the cost has been actually determined, the Council shall decide whether the benefited property or properties shall bear all or a portion of the cost. The Finance Director shall prepare the proposed assessment for each lot within the assessment district and file the assessments in the city recorder's office.

(2) Notice of the proposed assessment shall be mailed to the owner of each lot proposed to be assessed at the address shown on the Washington and/or Clackamas

County Tax Assessor's roll. The notice shall state the amount of assessment proposed on the property and fix a date for a public hearing.

- (3) At the hearing, the Council shall:
  - (a) Consider objections and may adopt, correct, modify, or revise the assessment against each lot or parcel in the district according to special and peculiar benefits accruing to it from the improvement.
  - (b) By ordinance, allocate the assessment in the manner deemed by the Council to be most equitable. (Ord. No. 350, 5/15/89)

3.254 Notice of assessment. (1) Within 10 days after the ordinance levying assessments has been passed, the City Recorder shall send a notice of assessment to each owner of assessed property by registered or certified mail.

(2) The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment, and the effective date of the assessment ordinance, and shall state when interest will begin to accrue on the assessment. The property will be subject to foreclosure unless the owner either makes application within 10 days to pay the assessment in semi-annual installments not to exceed 30 years as the City Council shall determine, together with any interest thereon on the unpaid assessment and administrative costs as the City Council shall determine, or pays the assessment in full within 30 days after the effective date of the assessment ordinance. (Ord. No. 350, 5/15/89)

3.258 Lien record and foreclosure proceedings. (1) After the assessment ordinance is adopted, the City Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land or portion of land, a description of the improvement, names of property owners, and the effective date of the assessment ordinance. On entry into the lien docket the amounts shall become liens and charges on the lots, parcels of land or portions of land that have been assessed for improvement.

(2) Assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as state law permits.

(3) Thirty days after the date of the assessment ordinance, interest shall be charged at a rate to be determined by the Council, and the city may foreclose or enforce collection of assessment liens in the manner provided by state law. (Ord. No. 350, 5/15/89)

(4) Assessment liens that have been Bancrofted in accordance with Oregon Bancroft Bonding Act and become one year delinquent are subject to foreclose and penalty and interest charges, as prescribed in Oregon Revised Statutes.

(5) The City may enter a bid on property being offered at a foreclosure sale. The City bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property. (Ord. No. 350, 5/15/89)

3.262 Error in assessment calculation. Claimed errors in the calculation of assessments shall be called to the attention of the Finance Director who shall determine whether there has been an error. If there has been an error, the Finance Director shall

recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the City Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail. (Ord. No. 350, , 515/89)

3.266 Supplemental assessments. If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvement, the Council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The Council shall set a time for hearing objections to the supplemental assessment and direct the city recorder to provide notice as required in Section 3.320. After the hearing, the Council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens as provided by Section 3.250. Notice of the supplemental assessment shall be mailed, and collection of the assessment shall be made in accordance with Sections 3.254 and 3.250. (Ord. No. 350, 5/15/89)

3.270 Rebates. On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the Council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid or that person's legal representative shall be entitled to payment of the rebate credit. (Ord. No. 350, 5/15/89)

3.274 Remedies. Subject to curative provisions of Section 3.282, and rights of the City to reassess as provided in Section 3.286, proceedings for writs and review and other appropriate equitable or legal relief may be filed as provided by state law. (Ord. No. 350, 5/15/89)

3.278 Abandonment of proceedings. The Council may abandon proceedings for improvements made under Sections 3.210 to 3.294 at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative. In the event the improvement was initiated by the city under Section 3.212(1), such refund shall be made, together with interest not to exceed the legal rate of interest, from the date the refunded assessment was initially paid to the city. (Ord. No. 350, 5/15/89)

3.282 Curative provisions. (1) An improvement assessment shall not be rendered invalid by reason of:

- (a) Failure of the engineer's report to contain all information required by Section 3.218.
- (b) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket, or notices required to be published and mailed.
- (c) Failure to list the name of or mail notice to an owner of property as required by this ordinance.
- (d) Any other error, mistake, delay, omission irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified,

unless it appears that the assessment is unfair or unjust in its effect on the person complaining.

(2) The Council shall have the authority to remedy and correct all matters by suitable action and proceedings. (Ord. No. 350, 5/15/89)

3.286 Reassessment. When an assessment, supplemental assessment, or reassessment for an improvement made by the City has been set aside, annulled, declared, or rendered void, or its enforcement restrained by a court of this state or by a federal court having jurisdiction, or when the Council doubts the validity of the assessment, supplemental assessment, reassessment, or any part of it, the Council may make a reassessment in the manner provided by state law. (Ord. No. 350, 5/15/89)

3.290 Reapportionment of assessments. (1) Property in single ownership at the time of the initial hearing at which the City acquires jurisdiction to perform a public improvement need not be divided by the City for the purpose of levying assessments except when the City received actual notice of the division of ownership of such property prior to the enactment of the assessment ordinance. After an assessment has been levied upon contiguous property in single ownership as provided in this section, there shall be no division or reapportionment of the assessment lien except under the following procedure:

- (a) The owner of all or any portion of a parcel of contiguous land subject to a single assessment may make application to the Finance Director for a division and reapportionment of the assessment; and such application shall contain a legal description of each parcel of land into which the property is proposed to be divided together with the name and address of each of the owners and other parties having an interest in such property.
- (b) The Finance Director shall prepare a written report reapportioning the assessments within fifteen (15) working days of receipt of the application with recommendations to the City Council. The Finance Director shall mail the report to each owner or party having an interest in the property being reapportioned and shall include notice of the time that the City Council shall hear the recommendations.
- (c) The Finance Director shall make no recommendation for a reapportionment of an assessment which will impair the security of the City for collection of the assessments upon the property, and the Finance Director may recommend to Council conditions upon such reapportionments for the protection of the City.
- (d) The City Council by resolution shall adopt, modify, or deny the recommendations made by the Finance Director on reapportionment.

3.294 Public Works standards. (1) The "Standard Specifications for Public Works Construction in the City of Wilsonville, Oregon," as amended 1981, is hereby adopted as the Public Works standards for the City. All work done and materials used for public improvements in the City shall conform to such specifications unless otherwise provided for in the particular specification for work authorized by the Council.

(2) Not less than three (3) copies of the "Standard Specifications for Public



Works Construction in the City of Wilsonville, Oregon" shall be kept and maintained on file in the office of the City Recorder for use and examination by the public.

(3) Any person violating any provisions of this section shall be punished upon a first conviction for a violation pursuant to Section 1.012, and upon a subsequent conviction for a Class C Misdemeanor pursuant to Section 1.011. Each day of any violation constitutes a separate offense. (Amended Ord. #253, 2/21/84)

(4) The City Manager and/or City Council may authorize and direct the City Attorney to institute and prosecute in the name of the City in the courts of this state an appropriate suit or action to enjoin violations or threatened violations of this section, or to recover fees chargeable pursuant to this section. In case of any such civil suit, action, or appeal therefrom, the City shall be entitled to recover its costs and disbursements incurred therein and reasonable attorneys' fees as may be fixed by the court in such suit, or action, or appeal. (B)

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting on the first day of May, 1989, and scheduled for a second reading at a regular meeting of the Council on the fifteenth day of May, 1989, commencing at the hour of 7:30 o'clock p.m. at the Wilsonville City Hall.

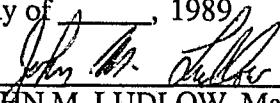
  
VERA A. ROJAS, City Recorder

ENACTED by the Council on the 15th day of May, 1989, by the following votes:


AYES: 4      NAYS: 0

  
VERA A. ROJAS, City Recorder

DATED and signed by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 1989

  
JOHN M. LUDLOW, Mayor

SUMMARY of Votes:  
Mayor Ludlow      AYE  
Councilor Chandler      AYE  
Councilor Clarke      AYE  
Councilor Dant      AYE  
Councilor Edwards      ABSENT

TO: Honorable Mayor and City Council  
FROM: Pete Wall   
City Manager  
SUBJECT: LID Ordinance - CB-O-118-89  
DATE: April 27, 1989

This ordinance has been prepared to replace our existing code regarding the formation and financial administration of LID's. This ordinance was drafted by the City Attorney based on a model ordinance prepared by the Bureau of Governmental Research. Another primary source was an ordinance from the City of Albany. LID's are also dealt with extensively in the Oregon Revised Statutes. The Bureau's model ordinance incorporates the key elements of these statutes.

There are a few key elements of this ordinance which we believe will be helpful in the formation of future LID's. Before I explain them, I would like to discuss LID's in general.

LID's are a very effective and beneficial tool in the development of a city if they are handled properly. They provide needed infrastructure which has an overall benefit for citizens of the community. They allow property to develop which otherwise may not be able to due to a lack of infrastructure thereby benefitting individual property owners. They can provide an equitable method of spreading the costs of improvements over all benefitted properties. Finally, they can provide property owners with the use of local government's tax-exempt financing authority which helps make projects financially feasible. So LID's, if managed properly, can be a valuable tool which benefits the entire community. LID's, if not managed properly, can be disasters.

There are no real secrets in managing LID's - it just takes quality planning and work at all stages. They are used successfully all over the United States. The key is to take the time and make the effort to do a quality job. The original planning, construction drawings, project management, financial controls, and the actual project financing all need to be planned and coordinated to achieve success in an LID. I believe that this LID ordinance gives Wilsonville the tools to be able to complete successful LID's.

The key changes in this ordinance as opposed to our previous one are as follows:

1. Engineer's Report (3.214 (1)) - A section has been added to require the engineer to look beyond the narrow scope of a project to show what future improvements may be necessary to insure proper functioning of the improvement to be developed by the LID.

2. Financial Investigation Report (3.218) - Under the new ordinance a financial investigation report is required prior to forming the district. Previously this was not a requirement and little consideration was given to these vitally important issues. This language was developed from the Albany ordinance. Albany developed this in response to a situation where the LID was not financially sound and the city foreclosed on a large amount of property that was not readily saleable.
3. Assessment Ordinance (3.250) - This provision requires assessments to be made only after the project is completed and all costs have been determined. This would virtually eliminate the possibility of a deficit assessment situation. In LID's No. 5 & 7, the city preassessed due to the threat of the passage of a tax limitation measure. This has caused problems due to cost overruns.
4. Board of Viewers - The present code includes a provision for a board of viewers to "determine a method of assessing all property receiving benefits" from an LID. This ordinance eliminates the Board of Viewers. This was an additional step in the process. The City Council has the ultimate responsibility for the decisions on an LID and in accepting that responsibility should make the decision on what formula to use to assess the property owners.
5. Reapportionment of Assessments (3.290) - This section simplifies the reapportionment process to allow them to be completed by resolution rather than an ordinance. This is in accordance with the Oregon Revised Statutes. Our present process requires an ordinance which can add over 30 days in some cases to complete a reapportionment. This is an unnecessary delay which can cause problems for property owners. Reapportionment should be a relatively simple administrative task.

The above-mentioned items are the major changes proposed for the code and should allow us to form better-planned LID's. The ordinance is scheduled for a first reading on May 1st and a second reading and public hearing on May 15th. We have had some public interest in this ordinance and have mailed copies and information on the hearing to those people.

pw:lb