

Abolished

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In Re: An Ordinance Establishing )  
Procedures for Creating Local ) NO. 84-2  
Improvement Districts and for )  
Making Public Improvements ) ORDINANCE  
Financed by Special Assessments )

THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON  
ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this ordinance is to provide a procedure for constructing, operating and maintaining public improvements of the county which are to be financed wholly or in part by special assessment against benefited property and to provide a procedure for levying, collecting and enforcing the payment of such special assessments.

SECTION 2. DEFINITIONS

As used in this ordinance, unless the context requires otherwise:

A. 'BOARD' means the Board of County Commissioners for Columbia County, Oregon.

B. 'PERSON' means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any legal entity whatsoever.

C. 'OWNER' means the owner of the title to real property or the contract purchaser of real property, of record as shown on

the last available complete assessment role in the office of the Columbia County Assessor's Department.

D. 'PUBLIC IMPROVEMENT' means the local improvements described in ORS 223.387(1) and in addition but without limitation means:

1. The operation and maintenance of facilities and services which are the same as or directly related to the local improvements described in ORS 223.387(1).

2. Public open space, median strip plantings and greenery facilities including all land, structures, equipment, supplies and personnel necessary to acquire, develop, manage or maintain such local public open space, median strip plantings and greenery facilities, whether the property comprising the public open space, median strip plantings and greenery facilities is in public or private ownership.

### SECTION 3. LOCAL IMPROVEMENT DISTRICTS.

A. The property which is to be assessed for the cost or a part of the cost of a public improvement and the property on which the public improvement is located shall be known together as a local improvement district.

B. The property within a local improvement district shall be subject to assessments of two classes.

1. Assessments may be levied against benefited property for the purpose of defraying the cost of public improvements within the local improvement district which involve purchase, construction, reconstruction or repair.

2. Assessments may be levied against benefited property for the purpose of defraying the cost of public improvements within a local improvement district which involve maintenance and operation.

C. The Board may at any time appoint a citizens advisory board for a proposed or existing local improvement district. Its members shall serve for the terms specified by the Board or if no terms are specified, until further order of the Board.

D. If the public improvements proposed for a local improvement district will involve operation or maintenance, the Board shall adopt an annual budget for the district which shall contain in addition to operating and maintenance expense, the cost of proposed construction, purchase, reconstruction and repair. The budget shall contain anticipated revenue from assessments and from user fees and service charges, if any, generated by the improvements. All levies of assessments and expenditures shall correspond as nearly as possible to adopted budgets. However, the Board may amend such budgets from time to time as it deems necessary. The Local Budget Law (ORS 294.305 to 294.520) shall not apply so long as revenue from assessments comprises at least 80 percent of the total revenue of a district.

E. A proposed assessment for maintenance or operation or both may be designated a maximum annual assessment. When the requirements of paragraph 2 of this subsection are met, a maximum annual assessment shall operate as described in paragraph 1 of this subsection.

1. Each year the Board shall determine and include in its budget for a local improvement district the portion or all of a maximum annual assessment that it deems necessary for maintenance or operation or both during the ensuing year. It may thereafter levy and collect the assessment without the notice and hearing otherwise required by this ordinance.

2. The fact that a proposed assessment will be a maximum annual assessment shall be stated in the order creating the local improvement district and notice of hearing on the proposed improvement. The effect and operation of such an assessment shall be explained in the notice. If approved, the order authorizing the improvement shall also clearly designate the character of the assessment.

3. The existence of a maximum annual assessment in a local improvement district shall not prevent the Board from making additional assessments of both classes described in SECTION 3B.

4. The authorization for a maximum annual assessment shall be revoked upon receipt by the Board of a written request therefor signed by more than one-half of the owners representing more than one-half by area of the property specially benefited by the assessment. No signature shall be accepted that was made more than 60 days prior to receipt of the request.

#### SECTION 4. INITIATION OF PROCEEDINGS

A. Whenever the Board shall deem it necessary, upon its own

motion, or upon receipt of a petition from 60 percent or more of the property owners within a proposed local improvement district representing 60 percent or more of the real property within a proposed local improvement district the Board shall direct an appropriate department or employee, or combinations thereof, of the County to prepare a report on the proposed public improvement or improvements and file the same with the Board. Proposals for public improvements may anticipate both classes of assessment described in SECTION 3B and both classes of assessment may be included in one assessment proceeding.

B. Unless directed otherwise by the Board, the report shall contain the following matters:

1. A map or plat showing the general nature, location and extent of the proposed improvement and of the proposed local improvement district.

2. Preliminary plans, specifications and estimates of the work to be done.

3. An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto. If assessments are proposed for maintenance or operation, a budget for the first fiscal year or portion thereof, and projected budgets for subsequent years so far as is reasonably possible.

4. A recommendation as to the method or methods 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 property specially benefited.

5. The description of each lot, parcel of land, or portion thereof to be specially benefited by the improvement with the names of the owners or reputed owners thereof and the estimated assessment or assessments against each such lot or parcel.

SECTION 5. BOARD ACTION ON REPORT

After the report described in SECTION 4 has been filed with the Board, the Board may approve the report, modify the report and approve it as modified, require additional or different information or abandon the improvement.

SECTION 6. ORDER AND NOTICE OF HEARING

A. If the Board approves a report it shall enact an order creating and describing the local improvement district, declaring its intention to make the public improvement, providing the manner and method of carrying out the improvement, setting a public hearing on the improvement not less than twenty days from the date of the order to hear objections and directing that notice be given of the proposed improvement and of the public hearing.

B. The notice shall contain the following matters:

1. A general description of the public improvement and of the local improvement district. The description of the district need not be by metes and bounds and shall be such that an average person can determine from it the general location of the property. The description of the district may include a listing of the affected tax lots.

2. A statement that the report adopted by the Board concerning the public improvement is on file and subject to public examination.

3. The time and place of a public hearing on the improvement to hear objections.

4. A statement that written objections to the improvement will be received by the Board at any time prior to the conclusion of the public hearing and that if written objections are received from more than one-half of the property owners representing more than one-half by area of the specially benefited property, the improvement will be suspended for not less than six months or abandoned.

C. The notice may be given by publication in a newspaper of general circulation within the local improvement district, by posting at the Courthouse and within the district, by mailing to the owners of property within the district or by any combination of these methods reasonably calculated to provide actual notice to interested persons. Notice shall be given not less than ten days nor more than 20 days prior to the public hearing.

#### SECTION 7. HEARING

At the time of the public hearing on the proposed improvement, if written remonstrances are properly received from more than one-half of the property owners representing more than one-half by area of the specially benefited property, the Board shall order that the improvement be suspended for not less than six months or abandoned. Abandonment shall be deemed to dissolve the

local improvement district. Otherwise, the Board shall hear testimony on the proposed improvement and may continue the hearing as it deems necessary. If the Board determines that the improvement shall be made, it shall so order at the conclusion of the hearing or within sixty days thereafter by an order authorizing the improvement. The order shall contain such direction as is necessary regarding the manner and method of making, operating and maintaining the improvement. The Board may, on its own motion at any time prior to the initiation of work on the improvement or letting of contracts for the improvement, order that the improvement be abandoned. Failure of the Board to act within the sixty day period shall constitute abandonment.

#### SECTION 8. MANNER OF DOING WORK

Public improvements may be constructed, purchased, reconstructed, operated and maintained by the county, by another governmental agency, by contract or by any combination thereof. The making and administration of contracts for public improvements shall be governed by state law.

#### SECTION 9. ASSESSMENT

A. When the estimated cost of an authorized public improvement has been ascertained on the basis of the award of a contract or county departmental cost, or after the work has been done and the actual cost thereof has been determined, the Columbia County Assessor's Department shall prepare the assessment to the respective lots or parcels of property in the local improvement district and file it with the Board.



B. Upon receipt of the assessment roll the Board shall determine whether to certify the assessments to the tax roll to be collected with ad valorem taxes or charge the assessments immediately against the property owners. If the assessment is to be charged immediately against the property the Board shall direct that notice be mailed to the owners or reputed owners of the property containing the following information.

1. The name of the owner or reputed owner, the description of the property assessed, the total project cost assessed against benefited property and the amount of assessment against the described property.

2. A date by which time written objections to the proposed assessment stating the grounds for objection must be received and the date of a hearing at which time the Board will consider any objections.

3. A statement that the assessment in the notice or as it may be modified by the Board will be levied by the Board after the hearing and thereafter will be charged against the property and be immediately payable in full or in installments if applicable.

If the assessment will be collected with ad valorem taxes the Board shall direct that notice be mailed to the owners or reputed owners of the property containing the information described in paragraphs 1 and 2 of this subsection and a statement that the assessment in the notice or as it may be modified by the Board will be levied by the Board after the hearing and thereafter will

be certified to the tax rolls and collected with ad valorem taxes.

C. The Board shall hold the hearing described in the notice to consider those objections filed in writing. After the hearing the Board may adopt, correct or revise the assessment roll and in doing so shall determine the amount of assessment to be charged against each lot or parcel within the local improvement district according to the special benefits accruing to each and shall levy such assessments by order. If the assessments are to be collected with ad valorem taxes the order shall certify the assessments to the Columbia County Assessor who shall add them to the tax roll and collect them for the district. If the assessments are to be charged immediately against the property, the order shall specify whether payments may be made in installments and the date that payments or applications for installment payments are due. In the case of assessments charged immediately against the property, the Columbia County Assessor's Department shall notify each property owner or reputed owner by registered mail of the following information:

1. The date of the order levying the assessment, the amount of the specific assessment and a description of the property assessed.

2. If the Board has so ordered and if the assessment is for \$25.00 or more, application may be filed by the date specified by the Board to pay all or any portion not less than \$25.00 in installments according to the Bancroft Act (ORS

223.205 to 223.300) as modified by this ordinance. An explanation of procedures for installment payments shall be included.

3. The entire amount of the assessment, less any part for which application to pay in installments is made, is due on the date specified by the Board and if unpaid on that date, will accrue interest and subject the property to foreclosure.

#### SECTION 10. INSTALLMENT PAYMENT OF ASSESSMENTS

The provisions of the Bancroft Bonding Act (ORS 223.205 to 223.300) may apply to all assessments, except maximum annual assessments, if the Board so provides in its order levying assessments. The provisions of the Bancroft Bonding Act are considered modified as necessary to avoid conflict with this ordinance.

#### SECTION 11. LIEN RECORD, INTEREST AND FORECLOSURE.

A. After passage of the order levying assessments by the Board, the Columbia County Assessor shall enter in the docket of county 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, the date of the order levying the assessment and the date upon which payment or application for installment payment is due. Upon such entry in the lien docket the amount so entered, together with interest as it accrues, shall become a lien and charge on the respective lots, parcels of land or portions thereof which have

been assessed for the improvement. All payments shall be entered in the lien docket and shall discharge the lien to the amount of such payment. Notwithstanding the manner and time of payment of an assessment specified by the Board, the whole amount of the assessment together with interest and costs accrued thereon may be paid after the assessment is entered in the lien docket and before it is due.

B. All assessment liens of Columbia County shall be superior and prior to all other liens on the same property insofar as the laws of the State of Oregon permit.

C. Interest shall accrue on all unpaid assessments charged immediately against property from the date for payment or application for installment payment as specified by the Board in the order levying the assessment.

D. An assessment or an installment thereof is delinquent from the date it is due as ordered by the Board unless it is to be collected with ad valorem taxes in which case it is delinquent from the date on which the real property taxes with which it is billed are delinquent. One year from the date an assessment or an installment thereof is delinquent the Board may prepare a delinquent list of all such assessments not wholly paid. The list shall contain a description of the property, the name of the person to whom assessed and the unpaid amount of the assessment together with accrued interest and costs.

1. The Board shall transmit the list to the Columbia County Assessor who shall issue a writ of execution thereon,

directed to the Board.

2. The Board shall proceed to collect the unpaid assessments, interest and costs named in the list by advertising and selling each parcel of land in the manner provided by law for the sale of real property on execution, but no parcel shall be sold for a sum less than the amount of the unpaid assessment, interest, costs and the cost of advertising and sale.

3. The county may, at its option, enter a bid for the property being offered at the 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 12. ERRORS IN ASSESSMENT CALCULATION

Claimed errors in the calculation of assessment shall be called to the attention of the Columbia County Assessor, who shall determine whether there has been an error in fact. If the Assessor should find that there has been an error, he shall recommend to the Board an amendment to the order levying assessments to correct such errors; and upon enactment of such amendment, the Assessor shall make the necessary correction in the docket of county liens and send a correct notice of assessment by mail.

#### SECTION 13. 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 Board may, by motion, declare such deficit and declare a proposed deficit assessment. The Board shall set a time for hearing of objections to such deficit assessment and shall mail notice of the hearing to owners of the affected property. After such hearing, the Board shall make a just and equitable deficit assessment, by order, which shall be entered in the docket of county liens as provided by this ordinance; and notices of the deficit assessment shall be mailed and the collection of the assessment shall be made in accordance with this ordinance and consistent with the form of collection of the original assessment.

#### SECTION 14. REBATES

If, upon completion of the improvement, it is found that the assessment previously levied on any property is more than sufficient to pay the cost of such improvement, then the Board must ascertain and declare the same by order; and when so declared, the excess amounts must be entered on the lien docket as a credit on 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 portion thereof, which exceeds the amount unpaid on the original assessment.

#### SECTION 15. CURATIVE PROVISIONS

No improvement assessment shall be rendered invalid by reason of a failure of the report to contain all of the information

required by this ordinance; or by reason of a failure to have all of the information required to be in the order authorizing improvement, the order levying assessments, 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 Board shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 16. REMEDIES

Actions of the Board pursuant to this ordinance are reviewable solely and exclusively by writ of review in accordance with the procedures in ORS 34.010 to 34.100, except as provided in SECTION 12 of this ordinance. Review of an order of the Board levying any assessment may be commenced only by a property owner who has filed a written objection to the proposed assessment in accordance with SECTION 9 of this ordinance.

SECTION 17. REASSESSMENT

Whenever any assessment, deficit or reassessment for any improvement which has been made by the county has been, or shall be, set aside, annulled or declared or rendered void, or its enforcement restrained by any court of the State, or any federal court having jurisdiction thereof, or when the Board shall be in

doubt as to the validity of such assessment, deficit assessment or reassessment or any part thereof, then the Board may make a reassessment in the manner provided by the laws of the State of Oregon.

SECTION 18. SEVERABILITY

The provisions of this ordinance are severable. If any section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 19. EFFECTIVE DATE

This ordinance shall be effective 90 days after passage.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 2nd DAY OF May, 1984.

BOARD OF COUNTY COMMISSIONERS

Robert Long  
Chairman

Robert McLeod  
Commissioner

Max W. Dillard  
Commissioner

Roberta Hobbs  
Recording Secretary

First Reading: 4/18/84  
Second Reading: 5/2/84

Vote:

Aye: X Nay: \_\_\_\_\_  
Aye: X Nay: \_\_\_\_\_  
Aye: X Nay: \_\_\_\_\_