

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In Re: An Ordinance Establishing )  
Procedures for Making Improve- ) NO. 85-5  
ments on Streets and Roads in )  
Unincorporated Areas Which Are ) 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, or reconstructing improvements of streets and roads in unincorporated areas 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 in accordance with ORS 371.605 to ORS 371.660.

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 a vendee under a recorded land contract or if there is no such contract, the holder of the record title, which vendee or holder has a present interest equal to or greater than a life estate.

D. 'IMPROVEMENT' means the following:

(a) The grading, graveling, paving or other surfacing of any road, or opening, laying out, widening, extending, altering, changing the grade of or constructing any road.

(b) The construction or reconstruction of sidewalks.

(c) The installation of ornamental street lights.

(d) The reconstruction or repair of any road improvement mentioned in this subsection.

(e) The acquisition, establishment, construction or reconstruction of any off-road motor vehicle parking facility.

(f) Installing, constructing, reconstructing, improving, extending or repairing lateral sewers, street mains, sewage disposal systems or similar facilities, and other facilities incidental thereto, within the right of way or a county road or public road.

E. "Road," "county road," and "public road" have the meanings given to those terms in ORS 368.001.

SECTION 3. INITIATION OF PROCEEDINGS

A. Proceedings to cause any improvement to be made or constructed in an unincorporated area may be initiated by the Board upon its own resolution or upon receipt of a petition from 60 percent or more of the owners of the land representing not less than 60 percent or more of the land abutting on the proposed improvement. The resolution or petition must state where the improvement is to be made and describe the nature of the improvement. The Board shall direct the Roadmaster of the County to prepare a report on the proposed public improvement or improvements which contains the information specified in Section 3B and file the same with the Board and the County Clerk.

B. The report shall contain the following matters:

1. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be included in the proposed improvement.
2. Preliminary plans, specifications, estimates of the work to be done, and the feasibility of the improvement.
3. An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto.
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, except that the cost of construction of sidewalks shall be assessed in proportion to the front footage of the land abutting on the side of the street or road on which the sidewalks are constructed and fronting on such sidewalks.

5. 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 owners and the estimated assessment or assessments to be levied against each such lot or parcel.

6. Where the improvement petitioned for includes the construction and installation of lateral sewers, street mains or similar facilities, a separate statement of the estimated cost of the construction and installation of lateral sewers, street mains or similar facilities.

#### SECTION 4. BOARD ACTION ON REPORT

If the report described in SECTION 3 is favorable, the Board shall mail to the owner of each parcel of land to be assessed for the proposed improvement written notice which contains the following matters:

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

2. A statement that the report by the Roadmaster was favorable toward the improvement, is on file with the Clerk, and is subject to public examination.

3. The estimated cost of the improvement and the estimated amount of the assessment against the owner's land.

4. A statement that written objections, if any, to the improvement must be filed with the Board within 20 days from the date the notice was mailed.

SECTION 5. ORDER

A. If written objections are received from more than 50% of the property owners representing more than 50% of the total amount of the assessment for the proposed improvement, the proposed improvement shall be declared abandoned by order of the Board and no new petition shall be filed or resolution adopted for the improvement within a period of one year after the date of the order.

B. If written objections are not properly received from more than 50% of the property owners representing more than 50% of the total amount of assessment for the proposed improvement, the Board may, by order, direct that the improvement be made by contract or force account. The order shall contain the following:

1. The manner and method of making the improvement;

2. The manner and method of determining the assessment;

3. A description of the land to be improved;
4. A description of the land to be assessed; and
5. A direction that the improvement be made.

The order shall be filed with the County Clerk and indexed in the County lien docket. Once the order is filed it is notice that the land described in the order is subject to a lien for an assessment for the cost of improvement in an amount to be determined by later order.

C. If the improvement is not commenced within two years after the order is recorded, the Board may, by a new order, vacate the former order for the proposed improvement. The County Clerk shall record and index the new order in the county lien docket, which will free the land from any lien and the effect of the former order.

#### SECTION 6. MANNER OF DOING WORK

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

#### SECTION 7. ASSESSMENT PROCEDURE

A. After the improvement has been made, inspected by the Roadmaster and accepted by the Board, the Roadmaster shall compile the total cost of the improvement. He may add up to 15 percent of the total cost for engineering and administration. Where the improvement includes the construction and

installation of lateral sewers, street mains or similar facilities, the Roadmaster shall separately compile the total cost of those improvements.

B. Payment of the cost of the improvement other than for the construction and installation of lateral sewers and street mains or similar facilities shall be made from the general road funds or from any funds available for the construction or improvement of county roads. Payment of the cost of the construction of lateral sewers and street mains or similar facilities shall be made from any funds available to the county for such improvements.

C. The funds expended for the improvement shall be reimbursed or the improvement warrants shall be retired to the extent of the proceeds of an assessment against the land benefited by the improvement, but no assessment shall be made against any operating railroad right of way without the consent of the owner thereof. Each landowner shall be assessed a portion of the cost of the improvement corresponding to the relative benefit to his land from the improvement.

D. All of the cost of improvements within intersections connected with any improvement under this ordinance may be borne by the county.

E. Unless notified to the contrary by the owner prior to the acceptance of bids for improvements under this ordinance, an existing driveway shall be reconstructed to the property line to conform with the new grade. Additional

driveways or other road connections, including retaining walls, may be constructed simultaneously with the improvements, when a written request is filed with the Board prior to the acceptance of bids by the affected abutting landowners. The cost of the driveway and all requested work shall be charged to the abutting owner and added to the assessment against his land.

F. The Roadmaster shall ascertain the amount of the assessment to the respective lots or parcels of property and file it with the Board and the County Clerk. The cost of the improvement shall be allocated to the specially benefited property according to the method set forth in the order.

G. Upon filing of the assessment report with the Board and County Clerk, the Board, by order, shall schedule a hearing for objections not less than 10 days after the filing of the report. Not less than five days prior to the date of the hearing, the Board shall direct that notice be mailed to the owners of the property proposed to be assessed at his address as shown on the petition or on the latest tax roll of the County. The notice shall contain the following information:

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

2. A statement of the date, place and time of the hearing and that written or oral objections to the proposed assessment which state the grounds for objection may be presented at the hearing.



3. A statement that the proposed assessment 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 payable in full unless proper application for installment payments has been made.

H. The Board shall hold the hearing described in the notice to consider those objections filed in writing and to hear oral testimony. After the hearing, the Board may adopt, correct or revise the assessments based upon the evidence presented and in doing so shall determine the amount of assessment to be charged against each lot or parcel according to the special benefits accruing to each and shall certify a list and description of the ownership stating the amount of assessment against each individual parcel of land in an order and shall record the order with the County Clerk. All payments are due in full 30 days after the assessment is certified unless proper application for installment payments has been made pursuant to the Bancroft Bonding Act. The Board shall notify each property owner by registered mail of the following information:

1. The date of the order certifying the assessment, the amount of the specific assessment on the owner's property and a description of the property assessed.

2. If the assessment is for \$25.00 or more, application may be filed within 10 days of the date of the notice to pay all or any portion not less than \$25.00 in installments according to the Bancroft Boarding Act

(ORS 223.205 to 223.295). An explanation of procedures for installment payments shall be included.

3. The entire amount of the assessment, except any part for which application to pay in installments under the Bancroft Bonding Act has been made, is due in full 30 days after the assessment is certified and if unpaid on that date, will accrue interest at a rate established by the Board and subject the property to foreclosure.

SECTION 8. INSTALLMENT PAYMENT OF ASSESSMENTS THROUGH THE BANCROFT BONDING ACT

The provisions of the Bancroft Bonding Act (ORS 223.205 to 223.295) are adopted and may apply to assessments for improvements for \$25.00 or more certified pursuant to this ordinance. However, notwithstanding ORS 223.295, in issuing bonds and other obligations under the provisions of this section, a county may incur indebtedness to an amount not exceeding .0375 of the latest true cash valuation of the county.

SECTION 9. LIEN RECORD, INTEREST AND FORECLOSURE.

A. Once the order certifying the assessments has been recorded with the Clerk, the Clerk shall enter in the docket of county liens the following:

1. A statement of the amounts assessed upon each particular lot, parcel of land or portion thereof;
2. A description of the improvement;
3. The name of the owners;
4. The date of the order certifying the assessment; and

5. 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 payment of an assessment is due, 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 as established by the Board shall accrue on all unpaid assessments charged immediately against property from the date payment in full is due or if installment payments are to be made, from the date each installment payment is due.

D. An assessment or an installment thereof is delinquent from the date it is due. One year from the date an assessment or an installment is delinquent, the Board may prepare a list of all assessments not wholly paid which shall contain a description of the property, the name of the owner of the property assessed and the unpaid amount of the assessment together with accrued interest and costs.

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

2. The Board shall direct the Clerk to 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, plus interest, and the cost of advertising and sale.

SECTION 10. ERRORS IN ASSESSMENT CALCULATION

Claimed errors in the calculation of assessment shall be called to the attention of the County Clerk, who shall determine whether there has been an error in fact. If the Clerk should find that there has been an error, the clerk shall recommend to the Board an amendment to the order levying assessments to correct such errors; and upon enactment to such amendment, the Clerk shall make the necessary correction in the docket of county liens and send a correct notice of assessment by mail. If the Clerk finds that no error has been made, interest on the assessment will be determined from the original due date.

SECTION 11. 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 notice required to be published and mailed; nor by the failure 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 he specified, unless it appears that the assessment is unfair unjust in its effect upon the person complaining; and they shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 12. 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. Review of an order of the 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 7 of this ordinance.

SECTION 13. 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, then

the Board may make a reassessment in the manner provided by the laws of the State of Oregon.

SECTION 14. APPLICABILITY OF OTHER STATUTES

The provisions of ORS 223.770, ORS 223.785, and ORS 287.502 to 287.515 shall apply in so far as practicable and applicable in relation to the assessment by the county of the cost or any portion of the cost of improvements against the property benefited in accordance with this ordinance and to the issuance of bonds and other obligations.

SECTION 15. 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 16. REPEALED ORDINANCE

Ordinance 84-2, An Ordinance Establishing Procedures for Creating Local Improvement Districts and for Making Public Improvements Financed by Special Assessments, is hereby repealed.

SECTION 17. EMERGENCY

This Ordinance is necessary for the preservation of public health, peace and safety, and an emergency is therefore declared to exist and this Ordinance shall take effect upon its passage.

Enacted this 5<sup>th</sup> day of June, 1985.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY  
COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 5<sup>th</sup> DAY OF  
June, 1985.

BOARD OF COUNTY COMMISSIONERS

Robert L King  
Chairman

Michael J. Taylor  
Commissioner

Jack R. Peterson  
Commissioner

Roberta Stubbs  
Recording Secretary

First Reading: 6/5/85  
Second Reading: 6/5/85

Vote:

Aye:	<u>X</u>	Nay:	_____
Aye:	<u>X</u>	Nay:	_____
Aye:	<u>X</u>	Nay:	_____