

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In Re: An Ordinance Establishing )  
Procedures for Creating Local ) NO. 85-6  
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, extending or enlarging public improvements in 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 roll in the office of the Columbia County Assessor's Department.

D. 'PUBLIC IMPROVEMENT' means: System developments as described in ORS 223.208(a)(a) and (b).

### SECTION 3. LOCAL IMPROVEMENT DISTRICTS

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.

### SECTION 4. INITIATION OF PROCEEDINGS

A. Whenever the Board shall deem it necessary, upon its own resolution, 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 combination thereof, of the County to prepare a report on the proposed public improvement or improvements which contains the information specified on Section 4B and file the same with the Board and the County Recorder.

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 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.

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 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 and the estimated assessment or assessments to be levied 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 and the County Clerk, 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 which:

1. Declares its intention to create a local improvement district and to make the public improvement;
2. Provides the manner and method of carrying out the improvement;

3. Sets a public hearing on the improvement not less than twenty days from the date of the order to hear objections; and

4. Directs 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 approved by the Board concerning the public improvement is on file with the Clerk and is subject to public examination;

3. The date, time and place of the public hearing on the improvement;

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 oral testimony will be taken at the hearing; and

5. A statement 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 will be given by mailing the notice to the record owners of property within the district and either by publication in a newspaper of general circulation within the local improvement district or by posting at the Courthouse and within the district. 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 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 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:

1. Authorization for the creation of a local improvement district and for the improvement;
2. The manner and method of constructing, extending or enlarging the improvement; and
3. The manner and method of determining the assessment to arrive at a fair apportionment.

X 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, extended or enlarged 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 Board shall decide whether the property benefited shall bear all or a portion of the cost. The County Assessor shall prepare the assessment roll, according to the method set forth in the order, to the respective lots or parcels of property in the local improvement district and file it with the Board and the County Clerk.

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.

C. The Board shall direct that a hearing be scheduled and that notice be mailed to the owners of the property. The

hearing shall be set not less than 10 days from the date the notice was mailed. 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 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 written 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 permitted or will be certified to the tax rolls and collected with ad valorem taxes, whichever is applicable.

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 the date that payments are due and whether payments may be made in installments by applying under the Bancroft Bonding Act. The Columbia County Assessor's Department shall notify each property 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 within 10 days from the date of the notice to pay all or any portion not less than \$25.00 in installments according to the Bancroft Bonding Act (ORS 223.205 to 223.295). An explanation of procedures for applying for installment payments shall be included.

3. The entire amount of the assessment, except for any part for which proper application to pay in installments under the Bancroft Bonding Act has been 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 THROUGH THE  
BANCROFT BONDING ACT

The provisions of the Bancroft Bonding Act (ORS 223.205 to 223.295) and all future revisions are adopted and shall be

followed by the Board for assessments for which installment payments are permitted.

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 the following information:

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 levying 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 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 at the rate of \_\_\_% per annum shall accrue on all unpaid assessments charged immediately against property from the date payment in full is due or from the date each 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. In addition to any method provided by law for the sale of real property for delinquent liens or assessments, the county may use the following procedure:

1. 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 and the lien, the name of the owner of the property assessed and the unpaid amount of the assessment together with accrued interest and costs.

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

3. The Board shall direct the Assessor 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 ORS 223.505-  
223.650 for the sale of real property on execution.

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 to such amendment, the Assessor shall make the necessary correction in the docket of county liens and send a correct notice of assessment by registered mail. If the Assessor finds that no error has been made, interest on the assessment will be determined from the original due date.

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 at least 10 days prior to the hearing. 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 order shall be sent by registered mail 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. 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 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 16. 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 17. ALTERNATIVE FINANCING METHODS

Nothing contained in this ordinance shall preclude the Board from using any other available means of financing improvements, including federal or state grants-in-aid, sewer 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 Board may levy special assessments according to the benefits derived to cover any remaining part of the costs of the improvement.

SECTION 18. 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 specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and he shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 19. SEVERABILITY

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

SECTION 20. 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 21. 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. Sykes  
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: _____