

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	ORDINANCE NO. <u>79-78</u>
PROCEDURES RELATING TO LOCAL)	
IMPROVEMENT DISTRICTS AND THE)	Introduced by the
APPORTIONMENT AND LEVY OF)	Solid Waste/Public
ASSESSMENTS RELATED THERETO.)	Facilities Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ORDAINS
AS FOLLOWS:

Section 1. Purpose

The purposes of this Ordinance are to establish a procedure for constructing, operating, and maintaining public improvements which are to be financed wholly or in part by special assessments against benefited property and to establish a procedure for levying, collecting and enforcing the payment of such special assessments, all in accordance with the authority granted by ORS 268.510.

Section 2. Definitions

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

(a) "Public Improvement" means an improvement constructed or maintained pursuant to district powers specified in ORS 268.310 (3).

(b) "Local Improvement District" means 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.

(c) "Council" means the Council of the Metropolitan

Service District.

(d) "Executive Officer" means the Executive Officer of the Metropolitan Service District.

(e) "District" means the Metropolitan Service District.

Section 3. Public Initiation of Local Improvement Districts

Whenever the owners of more than 50 percent of the property to be benefited propose an improvement and desire to form themselves into a local improvement district for the purpose of accomplishing such improvements, they may by written petition request the Council to initiate such a district pursuant to Section 5 of this Ordinance.

Section 4. Local Jurisdiction Initiation of Local Improvement Districts

Whenever the governing body of a city, county or special district within or partly within the District desires the formation of a local improvement district, it may by resolution request the Council to initiate such a district pursuant to Section 5 of this Ordinance.

Section 5. Council Initiation of Local Improvement Districts

(a) Local improvement district proceedings may be initiated by the Council upon the adoption of a resolution directing the Executive Officer to prepare plans and preliminary engineering estimates, and specifications for such improvements.

(b) The Executive Officer shall file with the Clerk of

the Council, within the time specified in the resolution adopted pursuant to paragraph (a), the preliminary engineering report containing the following information:

(1) A description of the project, its boundaries and the general plan proposed therefor.

(2) A description of each lot to be benefited.

(3) An estimate of the probable cost of such project including legal, administrative, engineering, planning, construction, finance and assessment costs attributable thereto.

(4) An estimate of the probable annual cost for maintenance and operation of the project.

(5) A proposed method of assessment apportionment, and an estimate of the portion of total costs to be specially assessed.

(c) Where a single hearing is to be held as provided in Section 8(b) of this Ordinance, an apportionment of the estimated assessment based on the special benefits to be received by lots within the improvement district shall be prepared and filed with the preliminary engineering report.

Section 6. Determination of Intention to Proceed

If and when the Council determines that the proceedings for the proposed improvement should go forward, the Council shall adopt a resolution stating its intention to proceed with the proposed local improvement. The resolution shall contain the name or designation of the improvement, the location of the improvement, the general character of the proposed improvement, the Executive

Officer's estimate of the cost of the improvement, a description of the specially benefited properties to be assessed, and directions to publish the resolution.

Section 7. Publication and Notices of Intention to Construct

(a) The Executive Officer shall publish the resolution determining the Council's intention to proceed in at least three (3) successive publications in a newspaper of general circulation within the district. ✓

(b) Within five (5) days after publication of the resolution, the Executive Officer shall cause to be posted conspicuously, within the area of the proposed improvement, at least two (2) notices headed "Notice of Proposed Improvement," containing a copy of the resolution indicated in Section 5, and the date of its adoption. ✓

(c) Within ten (10) days after publication of the resolution, the Executive Officer shall mail notice to affected landowners informing them of the proposed improvements and their right to remonstrate before the Council. The notice shall include: ✓

- (1) A description of the proposed improvement.
- (2) The total estimated cost of the improvement to be assessed within the Local Improvement District.
- (3) The total estimated annual cost of maintenance and operation of the improvement to be assessed within the Local Improvement District.
- (4) The portion of estimated costs to be assessed

against each affected landowner (unless apportionment is to be decided at a subsequent hearing).

- (5). The number of lots within the boundary of the assessment district.
- (6). The date of the last day for filing remonstrances (twenty (20) days after the first day of publication).
- (7). The date and place of hearings on the proposed improvement.

(d) No record need be kept of the mailing of any notice and the failure to mail, or a mistake in the mailing shall not be fatal when notice is posted or published as herein required.

Section 8. Remonstrances Against Proposed Improvement

If the District receives written remonstrances, prior to or during the hearing upon the proposed improvement, from more than fifty (50) percent of the affected property owners owning more than fifty (50) percent of the affected property, the proposed improvement will not be implemented unless the remonstrance is overruled as provided in Section 9 (d) of this Ordinance.

Section 9. Hearing on the Proposed Improvement

(a) No sooner than twenty (20) days after the notice required by Section 6 the Council shall hold a public hearing on the proposed improvement. At such hearing, persons wishing to object and persons favoring the improvement shall be entitled to be heard.

(b) The Council may, at its discretion, hold a single hearing to comply with the hearing requirements of the proposed improvement hearing under Section 8 and the assessment and apportionment hearing under Section 12.

(c) At such hearing, the Council may continue the proceeding, modify the resolution and direct a modification of the engineering report to alter the scope of the improvement. If new property owners become affected or proposed assessments will be increased as a result of such modifications, the notice requirements of the prior sections shall be followed; and new notices shall be sent to property owners within the proposed district and another hearing shall be held.

(d) The Council may, if it determines and adopts findings that the improvement is needed to correct a health or safety hazard, overrule all remonstrances.

(e) The Council may adopt an Ordinance establishing the local improvement district, adopting the total proposed assessment and directing the Executive Officer to implement the proposed improvements by contract.

(f) The Council may, if a combined hearing as provided in Section 8 (b) is held, adopt an Ordinance apportioning and levying the assessment with the Ordinance creating the Local Improvement District and adopting the total proposed assessment.

Section 10. Contracts for Improvement Construction

(a) Within a reasonable time following adoption of the Ordinance establishing the Local Improvement District, the Executive

Officer shall advertise for bids to construct the improvement.

(b) After determination of the lowest responsible bidder the Executive Officer may enter into a contract with such bidder for the construction of the improvement, provided such bid does not exceed the total proposed assessment adopted under Section 8 of this Ordinance, by more than 10 percent.

(c) In lieu thereof, or if no bids are received, the Executive Officer may provide for construction by contract with another unit of government, provided such contract does not obligate the District to pay an amount that exceeds the total proposed assessment adopted under Section 8 of this Ordinance by more than 10 percent.

(d) After execution of contract documents, the Executive Officer may direct the contractor to proceed as appropriate.

Section 11. Assessments

(a) 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 costs of public improvements within the Local Improvement District including but not limited to administration, assessment, planning, engineering, purchase, construction, supervision, reconstruction and repair.

(2) Assessments may be levied against benefited property for the purpose of defraying the cost of maintenance and operation of public improvements within a Local Improvement District. Administrative and enforcement costs may be included in

the assessment for maintenance and operation of public improvements within a Local Improvement District.

(b) Within a reasonable time following adoption of the Ordinance establishing the Local Improvement District, the Executive Officer shall prepare estimated assessments by apportioning the cost of the improvements upon the lots benefited by said improvements and within the assessment district fixed by the Council.

(c) The assessment shall be apportioned based on the special benefit received as determined by the zone, frontage, area, service unit, assessed value, or other method or any combination of methods which the Executive Officer, in his discretion, determines to be the most equitable and reasonable method of apportioning the said benefits.

(d) Where the Council has determined that a portion of the cost of the project shall be paid with public funds, the Executive Officer shall deduct from each proposed assessment the proportion of such assessment which the amount of public funds to be contributed bears to the total cost of the project.

(e) When an apportionment of cost has been made, in accordance with the special benefits to be derived by each property, the Executive Officer shall file a list of the proposed assessments with the Clerk of the Council.

Section 12. Notice of Proposed Assessments

(a) The Executive Officer shall mail notice to all affected property owners of the proposed assessments apportioned to their property.

(b) Notice shall be mailed within a reasonable time after the filing of the proposed assessment apportionment with the Clerk of the Council.

(c) Any owner of property proposed for assessment may remonstrate by filing objections to the proposed assessment, in writing, with the Clerk of the Council. Any such objection shall set forth the basis for the objection, and must be filed within ten (10) days of the date when notice was first mailed.

Section 13. Assessment Apportionment Hearing and Ordinance

(a) The Council shall hold a hearing on the apportionment of proposed assessments at which time it shall consider written remonstrances.

(b) The Council may overrule any and all remonstrances against assessment apportionment.

(c) At the hearing, the Council shall determine the amount to be assessed upon each lot. The assessment shall not exceed the special benefits accruing to such property from the improvements.

(d) The amount of the assessment apportioned need not be the amount of a proposed assessment adopted at an earlier hearing.

(e) The Council may pass an Ordinance apportioning and levying assessments against the affected properties.

(f) Upon such passage and the expiration of the period for application for installment payment, the District Finance Officer shall enter the assessments in the docket of district liens with a statement of the amounts assessed against each lot, a

description of the improvement, the name of the owner, the date of the order levying the assessment and the date upon which payment or installment payment is due.

(g) Upon entry in the lien docket, the amount so entered, with interest at the legal rate as it accrues, shall become a lien and charge on the respective lots assessed for improvements. All payments shall be entered in the lien docket and shall discharge the lien to the amount of such payment.

(h) Any owner may at any time discharge the lien by paying the whole amount of the assessment for which the lien is docketed together with the full amount of interest and costs accrued thereon to such date of payment.

Section 14. Notice of Assessment

(a) Promptly after passage of the Ordinance levying the assessment, the Executive Officer shall cause to be published, in a newspaper of general circulation within the district, a notice that such an Ordinance has been passed specifying the whole cost or estimated cost of the improvement, the boundaries of the district assessed, the number and title of the assessment Ordinance, and that the assessments are payable and due, the time when the same shall be delinquent and the charges and penalties related thereto.

(b) The Executive Officer shall also mail notice to each affected landowner of the assessment upon the property, and landowner's right to deferred payment under Section 17 of this Ordinance and all of the information specified in paragraph (a) above.

Section 15 Subsequent Operating and Maintenance Assessments

(a) For public improvements involving continuing operating and maintenance expenses, the Council shall annually adopt a budget based on an estimate by the Executive Officer of operating and maintenance expenses. All levies of assessment and expenditures shall correspond as nearly as possible to adopted budgets. However, the Council may amend such budgets from time to time as it deems necessary.

(b) A proposed assessment for maintenance 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 Council shall determine and include in its budget for the Local Improvement District the portion or all of a maximum annual assessment that it deems necessary for maintenance and operation during the ensuing year. The Council may thereafter levy and collect the assessment without the notice and hearing otherwise required by this Ordinance if the amount levied does not exceed the maximum annual assessment.

(2) The fact that a proposed assessment will be a maximum annual assessment shall be stated in the Ordinance 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 Ordinance 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 Council from making additional assessments of both classes described in Section 10.

(c) Subsequent maximum annual assessments shall be apportioned on the same basis as the original assessments unless changed as follows:

(1) The Council, at its own discretion, has taken action to reapportion all or any part of the maximum annual assessment.

(2) If, after the expiration of five years from the initial maximum annual assessment, a petition is filed with the Council signed by at least 50 percent of the owners or the owners of 50 percent the land area of the Local Improvement District, setting forth that the original assessments of benefits is inequitable, the Council may cause a reapportionment to be made.

Section 16. Deficits and Surplus

(a) Where the total sum assessed specially is found insufficient to cover the total cost of the project the Council may initiate additional assessment proceedings to finance the deficit.

(b) The procedures for adoption of an Ordinance spreading the additional assessments shall be substantially the same as those in Sections 10 through 14.

(c) Where the total cost of the project is found to be less than the assessments levied, the surplus shall be calculated and returned to the property owners pro rata except where the surplus results from an assessment under the provision for a maximum

annual assessment in which case the surplus shall reduce the following year's assessment.

Section 17. Contracting Out Assessment Functions

(a) The Executive Officer, in his discretion, may contract with local agencies to provide the district with services to meet the requirements of this Ordinance.

(b) Such services may include engineering, surveying, recording of assessments, billing and collection of assessments, the keeping of a Lien docket, notice to property owners and other related assessment functions.

Section 18. Deferred Payment of Assessment

(a) Any owner of property which has been assessed more than \$100 for an improvement beneficial to such property shall have the right to pay such assessment in installments. If an assessment or a portion of an assessment is for operating or maintenance expenses, the right to pay the assessment in installments shall not apply to such assessment or portion of an assessment.

(b) To preserve the right to pay in installments the property owner must, within ten (10) days after notice of such assessment is first published, file with the district financial officer a written application to pay:

- (1) The whole of the assessment in installments; or
- (2) If part of the assessment has been paid, the unpaid balance of the assessment in installments.

(c) At the option of the district written application may

be filed after ten (10) days after notice of assessment is first published.

(d) The written application must include the following:

(1) A statement that the applicant and property owner waives all irregularities or defects in the assessment or apportionment proceedings.

(2) An agreement to pay the assessment in equal semi-annual installments over a period not to exceed thirty (30) years as the Council may provide, with interest of seven (7) percent per annum on all assessments which have not been paid.

(3) A description by lot, block, or other convenient description of the property of the applicant assessed for improvement.

(e) No application for installment payment shall be accepted if the amount remaining unpaid upon such assessment together with the unpaid balance of any previous assessments for improvements against the same property equals or exceeds double the assessed valuation of the property.

(f) The district finance officer shall:

(1) Keep all applications for installment payments filed in convenient form for examination. Applications for each improvement shall be kept separate.

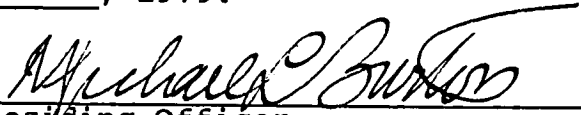
(2) Enter in a book, under separate heads for each improvement, the date of filing of each application, the name of the applicant, a description of the property, and the amount of the assessment as shown on the application.

Section 19. Elderly Homestead Deferral

A property owner who qualifies for an elderly homestead deferral under ORS 311.706 through 311.735 may claim the deferral by submitting the form required by ORS 311.708.

ADOPTED by the Council of the Metropolitan Service

District this 8th day of November, 1979.



Presiding Officer

Attest:



Clerk of the Council

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0065A

General ord. - codified

ORDINANCE NO. 79-78

TITLE ESTABLISHING PROCEDURES RELATING
TO LOCAL IMPROVEMENT DISTRICTS AND
THE APPORTIONMENT AND LEVY OF
ASSESSMENTS RELATED THERETO.

DATE INTRODUCED 10/25/79
FIRST READING 10/25/79
SECOND READING 11/8/79
DATE ADOPTED 11/8/79
DATE EFFECTIVE 12/8/79

ROLLCALL

	Yes	No	Abst.
Burton	X		
Stuhr	X		
Williams	X		
Berkman			
Kirkpatrick	X		
Deines	X		
Rhodes	X		
Schedeen	X		
Miller	X		
Banzer	X		
Peterson	X		
Kafoury	X		