

ORDINANCE NO. 137**AN ORDINANCE ESTABLISHING PROCEDURES FOR THE FORMATION OF AN ECONOMIC IMPROVEMENT DISTRICT AND FOR LEVYING AND COLLECTING SPECIAL ASSESSMENTS**

The City of Coos Bay Ordains as follows:

Section 1. Purpose. The City Council has determined that it is reasonable and necessary to establish Economic Improvement Districts in order to make economic improvements and to assess the cost of these improvements to the benefitted property.

Section 2. Definitions. As used in this ordinance, the following shall mean:
Economic Improvement includes:

- (1) The planning or management of development or improvement activities.
- (2) Landscaping or other maintenance of public areas.
- (3) Promotion of commercial activity or public events.
- (4) Activities in support of business recruitment and development.
- (5) Improvements in parking systems or parking enforcement.
- (6) Any other economic improvement activity for which an assessment may be made on property specifically benefitted thereby.

EID. An Economic Improvement District created or proposed under this ordinance.

Lot. A Lot, block or parcel of land.

Owner. The record holder of legal title or the purchaser where land is being purchased under a land sale contract recorded or verified in writing by the record holder of legal title to the land.

Section 3. Restrictions. No Economic Improvement District shall be formed which would:

- (1) Levy assessments in an economic improvement district in any year that exceeds

one percent (1%) of the true cash value of all the real property located within the district.

(2) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.

(3) Levy assessments on residential real property or any portion of a structure used for residential purposes.

Section 4. Initiation.

(1) An EID may be initiated:

(a) At the request of the Council;

(b) At the request of one or more owners of property to be benefitted specifically by the improvement; or

(c) As part of a master economic development plan prepared by or for the City.

(2) At the time of initiation, the Council shall determine the economic improvement project to be undertaken, make a preliminary estimate of the cost of the project, and develop a formula for apportioning cost to specially benefitted property.

Section 5. Notice of Council Hearing.

(1) Following initiation of an EID, public hearing on the proposed EID shall be scheduled before the Council.

(2) Not later than 30 days prior to the date of said public hearing, notice shall be mailed or delivered personally to affected property owners within the proposed district boundaries. The notice shall state the proposed intention to construct or undertake the economic improvement project and to assess benefitted property for a part or all of the cost. The notice shall state the time and place of the public hearing and include all the determinations-made by the Council under Section 4(2).

Section 6. Hearing.

(1) At the public hearing the proposed EID project shall be presented to include:

(a) A description of the economic improvement project(s) to be undertaken;

(b) A preliminary estimate of the probable cost of the economic improvement and the proposed formula for apportioning cost to specially benefitted property;

(c) A description of the boundaries of the district in which property will be assessed; and

(d) The number of years, to a maximum of three, in which assessments will be levied.

(2) Affected property owners shall have the opportunity to appear in person or in writing at the hearing to support or object to the proposed improvement assessment. Owners of property upon which seventy percent (70%) of the total amount of the proposed assessments are to be levied must consent in writing at or before the hearing; without such consent, the Council shall not establish the EID.

(3) The Council may continue the hearing as it deems necessary.

Section 7. Establishing EID.

(1) At the conclusion of the hearing the Council shall determine the scope of the EID project(s) and may modify the project(s) and/or decrease the size of the district.

(2) If the Council determines that an economic improvement district should be formed and if the required consent under 6(2) has been obtained for the district as proposed or modified, the Council shall order the district created,

(3) The Council shall determine whether the property benefitted shall bear all or a portion of the cost.

(4) The Council shall determine, based on the actual or estimated cost of the economic improvement project, the amount of assessment on each lot in the district.

(5) The Council may direct the Recorder to advertise for bids for such improvements or portions thereof as it has approved, or the City itself may proceed to make said improvement or any portion thereof. If the Council finds on opening bids that the cost of the improvement would be substantially in excess of the estimate, it may provide for holding a special hearing to consider objections to proceeding with a higher project cost.

Section 8. 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 boundaries of an improvement district consistent with the benefits derived.

- (b) Use any just and reasonable method to apportion the sum to be assessed among the benefitted 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 other character of the work warrants only partial payment or no payment of the cost by owners of benefitted properties.
- (2) Nothing contained in this section shall preclude the Council from using other means of financing improvements, including federal and state grants-in-aid, revenue bonds, general obligation bonds, or other legal means of finance. If other means of finance are used, the Council may levy special assessments according to benefits derived to cover any remaining cost.

Section 9. Assessment Ordinance.

- (1) When the estimated cost is determined on the basis of contract award or City cost or after the work is done and the cost has been actually determined, the Council shall decide whether the benefitted property shall bear all or a portion of the cost. The Recorder shall prepare the proposed assessment for each lot within the local improvement district and file the assessments in the 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 Coos County Tax Assessor's roll. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections shall be filed with the Recorder. An objection shall state the grounds for the objection. The notice shall also specify the date of the Council meeting at which the Council will sit as a board of equalization and will conduct 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 in the district according to special peculiar benefits accruing to it from the improvement.
 - (b) By ordinance, declare and levy the assessment and direct the Recorder to enter a statement thereof in the docket of city liens as provided for in Section 11 of this ordinance.

Section 10. Notice of Assessment.

- (1) Within 10 days after the ordinance levying assessments has been passed, the Recorder shall send a notice of assessment to each owner of assessed property by

certified mail, not later than 20 days after the date the assessment ordinance was enacted.

(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 date of the assessment ordinance, and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within 10 days after the date of the publication of notice or pays the assessment in full within 60 days after the effective date of the assessment ordinance.

Section 11. Lien Record and Foreclosure Proceedings.

(1) After the assessment ordinance is adopted, the Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket the amounts shall become liens and charges on the lots 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 effective date of the assessment ordinance, interest shall be charged at the rate set by the Council, and the City may foreclose or enforce collection of assessment liens in the manner provided by state law.

(4) The City may enter a bid on property being offered at a foreclosure sale. The City shall have priority over all bids except those made by persons who would be entitled under state law to redeem the property.

Section 12. Error in Assessment Calculation. Claimed errors in the calculation of assessments shall be called to the attention of the Recorder, who shall determine whether there has been an error. If there has been an error, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by certified mail.

Section 13. Advisory Committee. The Council may appoint an advisory committee for each economic improvement district to advise on allocations of monies for economic development activities within the scope of this ordinance. If an advisory committee is created, the Council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. The advisory committee may be an existing committee or commission. An advisory committee may enter into an agreement

with the City to provide the proposed economic improvement.

Section 14. Amendments.

(1) When the Council considers it necessary to levy assessments upon property in an economic improvement district for longer than the original period of time specified in the assessment ordinance that created the district, the Council shall enact an ordinance that provides for continued assessments for an additional specific number of years (not to exceed three (3) years) and grants to property owners in the district the notice and right to remonstrance described in Sections 5 and 6.

(2) When the Council considers it necessary to expand the boundaries of the district, each new property owner included will receive notice and have the right to remonstrance as specified in Section 6 of this ordinance. Boundary changes will be made by the enactment of an ordinance by the Council.

Section 15. Partition. When there has been an approved partition of a parcel and that parcel has outstanding a special assessment remaining wholly or partially unpaid, and full payment or an installment payment is not due, then any owner, mortgagee, or lien holder of any property affected by this partition may apply for an apportionment of the special assessment. Apportionment of the special assessment shall be done by resolution of the Council, and that resolution shall be filed with the lien docket. Where the special assessment is being paid in installments, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with the percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment. Apportionment shall be on the same basis as the original assessment.

Section 16. Severability. Should any portion of this ordinance be held to be invalid or unenforceable, it shall not affect the validity of the ordinance as a whole or of any other portion thereof.

Passed by the Council and approved by the Mayor April 18, 1989.