

ORDINANCE NO. 14-0421

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LOCAL IMPROVEMENT DISTRICTS; ESTABLISHING PROCESSES FOR HEARINGS AND OTHER LID ACTIONS; ADDING A NEW CHAPTER 3.40 AND A NEW CHAPTER 3.50 TO THE EDGEWOOD MUNICIPAL CODE; SETTING FURTHER HEARING ON LID NO. 1 FINAL ASSESSMENT ROLL BEFORE THE CITY COUNCIL; SUPERSEDING OTHER ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND, REPEALING ORDINANCE NO. 11-0361 AND PROVISIONS OF THE EDGEWOOD MUNICIPAL CODE.

WHEREAS, the City adopted Ordinance No. 11-0361 (April 26, 2011) to provide for the hearing on the final assessment roll for Local Improvement District No. 1 ("LID No. 1"); and

WHEREAS, the Council has determined to establish general policies for future LIDs consistent with State law, including the Council's discretion to assign the hearing on a final assessment roll to a City Council committee or to a hearing officer; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, as follows:

Section 1. A new chapter 3.40 and a new chapter 3.50 are added to the Edgewood Municipal Code, respectively, as follows:

**Chapter 3.40
Local Improvement Districts**

3.40.010 Procedures relating to local improvement districts and utility local improvement districts.

A local improvement, the cost of which is to be borne in whole or in part by special assessments on the property benefited thereby, may be ordered only by an ordinance, pursuant either to a resolution or petition therefor and in accordance with the provisions of Chapter 35.43 RCW through Chapter 35.56 RCW, as amended.

3.40.020 Powers and duties of city engineer.

The city engineer, or other person designated by the City Manager, is designated as the officer responsible for determining the sufficiency and accuracy of any petition filed to initiate a proceeding for the formation of a local improvement district or utility local improvement district. Upon the filing of a petition found by the city engineer to be sufficient or upon the adoption of a resolution initiating a proceeding for the formation of a local improvement district or utility local improvement district, the city engineer shall cause an estimate to be made of the cost and expense of the proposed improvement and shall certify it to the city council, together with all papers and information in the city engineer's possession touching the proposed improvement, a description of the boundaries of the district, and a statement of what portion of the cost and expense of the improvement should be borne by the property owners within the proposed district.

3.40.030 Assessment roll – Filing – Hearing, date, by whom held.

A. The assessment roll for local improvements when prepared as provided by law shall be filed with the city clerk. The city council shall thereupon fix a date for a hearing thereon before the council; may direct that the hearing shall be held before a committee thereof; or the city council may designate an officer to conduct such hearings. The committee or officer designated shall hold a hearing on the assessment roll and consider all objections filed following which the committee or officer shall make recommendations to the city council which shall either adopt or reject the recommendations of the committee or officer. If a hearing is held before such a committee or officer it shall not be necessary to hold a hearing on the assessment roll before the city council. An owner of property, having filed a protest before or at the hearing, may appeal his or her assessment to the city council from a decision made by a committee or officer. The same procedure may if so directed by the city council be followed with respect to any assessment upon the roll which is raised or changed to include omitted property. The city council shall direct the clerk to give notice of any such hearings, in the manner required by law.

3.40.040 Hearings on Assessment Roll.

A. The City Council, the committee thereof, the Hearing Examiner or officer designated by the city council shall commence the hearing on the date and at the time and place fixed by the of the city council, but may in the exercise of discretion recess the hearing to times certain in order to allow the parties to obtain essential additional information, provided, however, that an effort shall be made at all times to avoid delays which unnecessarily allow interest to accumulate upon obligations for which the local improvement district is responsible.

B. The committee, Hearing Examiner or officer shall reduce his/her findings, recommendations and decisions to writing and shall file them with the city clerk within twenty (20) days following the conclusion of the hearing. Notice of the filing, together with copies of the findings, recommendations and decisions shall be mailed by the city clerk (or any person designated by the city clerk to do so under his/her supervision) within three (3) business days of the filing to all persons who filed timely written objections to confirmation of the assessment roll as prepared. Instructions as to the filing of any appeal to the city council shall be included in the mailing.

3.40.050 Council Appeals.

A. Any finding, recommendation or decision of a committee, Hearing Examiner, or officer designated by the city council to conduct a hearing pursuant to RCW 35.44.070 and RCW 35.44.080, shall be subject to appeal to the city council.

B. An appeal under this section may be filed only by a party who timely perfected a protest at the initial hearing. The notice of appeal shall, in addition to requirements as to content specified elsewhere in this chapter, state clearly on the cover or cover page the number of the local improvement district and the appellant's name and parcel number and shall be filed with the city clerk no later than the fourteenth (14th) day after the day upon which the report and recommendation of the committee, Hearing Examiner or other officer is filed with the city clerk.

C. The notice of appeal shall also include a concise statement of the basis therefor and in the event that appellant deems the references on the findings, recommendations and decisions inadequate, a reference by metered index numbers to the places in the electronically prepared record of the hearing where the pertinent material may be found. The notice of appeal shall also

designate by name or title and by sub-number the items or exhibits in the record to which reference will be made in argument or briefing before the city council.

D. Upon the filing of a notice of appeal the city clerk shall promptly notify the city attorney and furnish a copy of the notice to the city council and the concerned city departments. Within fifteen (15) days following the filing of a notice of appeal the city council shall set a time and place for a hearing on the appeal before the city council and shall promptly mail or cause to be mailed notice of the time and place to the appellant, provided the time shall be as soon as practicable in order to avoid accumulation of additional interest on the obligations of the local improvement district. The city council shall direct whether the appeals are to be considered with or without oral argument.

E. Review by the city council on appeal shall be limited to and shall be based solely upon the record from the hearing below, provided, however, that the city council may permit oral or additional written arguments or comments when confined to the content of the record of the hearing below. The recommendation appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. In respect to the matter appealed the city council may adopt or reject, in whole or in part, the findings, recommendations and decisions of the committee, Hearing Examiner or officer or make such other disposition of the matter as is authorized by RCW 35.44.100 and this Chapter. The City Council shall reduce its determination to writing, file the original in the record of the local improvement district, and transmit a copy of the same to the appellant.

F. Upon receipt of the report, findings, recommendations and decisions of a committee, Hearing Examiner or officer, the city council shall review the same. As soon as all timely appeals from the findings, recommendations and decisions of the committee, Hearing Examiner or officer have been decided or the time allowed for filing appeals has expired with no appeals having been filed the city council may accept the assessment roll as prepared, or may correct, revise, raise, lower, change or modify the roll or any part thereof, or may set aside the roll and order the assessment to be made de novo. If an appeal has been filed from the findings, recommendations and decisions of a committee, Hearing Examiner or officer it shall be heard and determined and the results thereof incorporated into the assessment roll before it is confirmed. The city council shall confirm the roll by ordinance.

3.40.060. Bonds.

All local improvement district and utility local improvement district bonds shall be issued and registered in compliance with the applicable provisions of state and federal law and the ordinances authorizing the issuance and sale of the bonds.

LOCAL IMPROVEMENT DISTRICT GUARANTY FUND

3.40.300 Created.

The city establishes and creates a fund for the purpose of guaranteeing, to the extent of such fund, bonds and warrants issued against local improvement districts in the city. This fund shall be known as the local improvement guaranty fund.

3.40.310 Taxes levied.

There shall be levied, from time to time as other taxes are levied, such sums as may be necessary to meet the financial requirements of the local improvement guaranty fund created by this chapter. Whenever the city shall have paid out of the guaranty fund any sum on account of

principal and/or interest on a local improvement bond or warrant hereunder guaranteed, the city as trustee for such fund, shall be subrogated to all of the rights of the holder of the bond or interest coupon or warrant so paid and the proceeds thereof shall become a part of local improvement guaranty fund.

3.40.320 Payment from fund.

Whenever any interest coupon, bond or warrant guaranteed under the provisions of the laws of the state shall be in default, the finance director shall be and is hereby authorized and directed, upon the presentation and delivery of such defaulted bond, coupon or warrant, to execute, sign and deliver to the same person presenting the same, in the order of their presentation, and the city shall honor and pay a warrant on the local improvement guaranty fund in such amount as may be necessary to pay in full any such coupon, bond or warrant with any interest that may be due thereon. Any defaulted coupon, bond or warrant received by the finance director under the provisions of this chapter shall be held for the benefit of the local improvement guaranty fund.

COLLECTION OF INSTALLMENTS

3.50.010 Delinquent installments – Penalties.

Whenever any installment upon any local improvement district assessment or utility local improvement district assessment shall become delinquent, each of such delinquent installments remaining unpaid at the date of delinquency shall have added thereto a penalty equal to the rate of interest provided by ordinance for the bonds or installment note or notes issued to pay the costs of the improvement in such local improvement district or utility local improvement district plus ten (10) percent. When not otherwise provided by ordinance, such delinquent installments shall bear interest at the same rate as is provided by ordinance for the final assessment roll for such local improvement district or utility local improvement district or for the bonds or installment note or notes issued in payment or part payment of the cost of the improvement in such local improvement district or utility local improvement district.

3.50.020 Notice of delinquent assessments.

It shall be the duty of the city treasurer on or before the first day of July of each year to notify by certified mail the persons whose names appear on the assessment roll as the owners of property charged with assessments or installments which are more than two (2) years delinquent on the first day of January preceding, or for which the final installment has been delinquent since the first day of January of the preceding year, for the purpose of foreclosing the delinquent assessment or delinquent installment as provided by Chapter 35.50 RCW. If the person whose name appears on the tax rolls of the Pierce County assessor as the owner of the property, or the address shown for the owner on such rolls, differs from that appearing on the city assessment roll, then the city treasurer shall also mail a copy of the notice to that person or that address. The notice shall state the amount due upon each separate lot, tract, or parcel of land and the date after which proceedings to foreclose will be commenced.

3.50.030 Foreclosure of delinquent assessments.

When any local improvement district or utility local improvement district assessment is payable in installments, upon failure to pay any installment due, the entire remaining balance of the assessment shall become immediately due and payable, and the collection thereof shall be enforced by foreclosure. The payment of all delinquent installments, together with interest,

penalty and costs, at any time before the entry of judgment in foreclosure shall extend the time of payment on the remainder of the assessment installments as if there had been no delinquency or foreclosure. Foreclosure proceedings may be commenced at any time on or before November 15 of the year in which, on the first day of January of such year, two (2) installments of any local improvement district or utility local improvement district assessment were delinquent or the final installment was delinquent for more than one (1) year. In case of foreclosure, there shall be added to the costs and expenses provided by Chapter 35.50 RCW, such reasonable attorneys' fees as the court may adjudge to be equitable, and the amount thereof shall be apportioned to each delinquent assessment or installment appearing on that roll. When one (1) or more delinquent installments are paid before the foreclosure proceedings are completed, payment of such costs shall be a prerequisite to the city's dismissal of such proceedings unless otherwise ordered by the court.

Section 2. Hearing on LID No. 1. The City Council shall conduct a new hearing on the final assessment roll for properties within the LID, against such properties a final assessment has not yet been levied.

Section 3. Ordinance Controls – Repealer. This Ordinance supersedes all prior ordinances that are inconsistent or in conflict herewith. Without prejudice to the foregoing, Ordinance No. 11-0361 (April 26, 2011) and EMC 11.35.110 are hereby repealed.

Section 4. Severability. Any section or provision of this Ordinance found to be in violation of law is severable, and the remainder of this Ordinance shall remain in force and effect.

Section 5. Effective Date. This Ordinance shall take effect and be in place five days after adoption and publication as required by law.

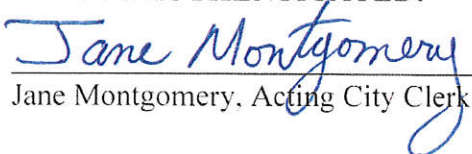
Presented to Council for its First, Second Reading, and Adoption on July 22, 2014

PASSED BY THE CITY COUNCIL ON THE 22ND DAY OF JULY, 2014

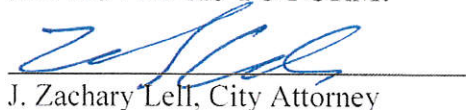
By:


Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:


Jane Montgomery, Acting City Clerk

APPROVED AS TO FORM:


J. Zachary Lell, City Attorney

Date of Publication: July 24, 2014

Effective Date: July 29, 2014

CITY OF EDGEWOOD
2224 - 104th Ave. East
Edgewood, WA 98371
(253) 952-3299
Fax: (253) 952-3537

LEGAL NOTICE

Date: July 23, 2014


NOTICE OF ORDINANCE PASSED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance passed by the City of Edgewood City Council on the 22nd day of July, 2014, and shall take effect and be in full force on the 29th day of July, 2014.

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The full text of the Ordinance is available at the City Clerk's office, Edgewood City Hall,
2224 - 104th Ave. East, Edgewood, WA 98371 (253) 952-3299.


JANE MONTGOMERY, ACTING CITY CLERK

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