

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5884

AN ORDINANCE repealing Chapter 15.04 Local Improvements of the Bellevue City Code ("BCC"); adopting a new Chapter 15.04 Local Improvements of the BCC; amending Chapter 3.68 of the BCC to clarify the Hearing Examiner's authority; and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 15.04 of the Bellevue City Code is hereby repealed.

Section 2. A new Chapter 15.04 of the Bellevue City Code is hereby adopted as follows:

Chapter 15.04 LOCAL IMPROVEMENTS

Sections:

- 15.04.010 State statutes adopted - Procedure.
- 15.04.020 LID Formation – 100% Petition.
- 15.04.030 Designated official's duties.
- 15.04.040 Hearing examiner's duties – Public Hearings.
- 15.04.050 Assessment roll – Hearing and Appeal.
- 15.04.060 Assessment payments – Penalty.
- 15.04.070 Acceleration of payments.
- 15.04.080 Foreclosure of assessment lien.
- 15.04.090 Treasurer's report.
- 15.04.100 Collection and segregation of assessments.
- 15.04.110 Local improvement guaranty fund.
- 15.04.120 Use of fund.
- 15.04.130 Warrants against guaranty fund.

15.04.010 Procedures and Provisions of state statutes adopted.

A local improvement or utility 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, and in accordance with the provisions of Chapter 35A.43 RCW, Chapter 35.43 through Chapter 35.56 RCW, as supplemented, modified and clarified through the provisions of this chapter. Where provisions of the Revised Code of Washington (RCW) are adopted or incorporated by reference in this chapter, the adoption or incorporation shall be deemed to refer to the provision as it now exists or as it may be hereafter amended. In the event of a conflict between the provisions of this chapter and the

RCW adopted or incorporated by reference, the provisions of this chapter shall control.

15.04.020 Additional Method of LID Formation – 100% Petition.

In accordance with the provisions of this chapter, when a petition signed by 100% of the owners of property in a proposed local improvement district is filed with the city clerk, asking that the improvement therein described be ordered, the hearing examiner shall forthwith fix a date for hearing thereon and the designated official shall order the publication of notice and give notice by mail. After such hearing, the city council shall, by ordinance meeting the requirements of this chapter, order the improvement, and may alter the boundaries of the proposed district: PROVIDED, HOWEVER, that no protest satisfying the provisions of this chapter is received; AND PROVIDED FURTHER, that no such improvement shall be ordered unless the same appears to the city council to be financially and economically feasible; AND PROVIDED FURTHER, that the city council may require as a condition to ordering such improvement or to making its determination as to the financial and economic feasibility, that all or a portion of such engineering, legal or other costs incurred or to be incurred by the city in determining financial and economic feasibility shall be borne or guaranteed by the petitioners of the proposed local improvement district under such rules as the city may adopt. No person shall withdraw his name from the petition after the same has been filed with the city.

Nothing in this section modifies applicable provisions regarding establishment of the assessment roll for a local improvement district formed pursuant to this section.

15.04.030 Designated official's duties.

In accordance with the provisions adopted by reference in Section 15.04.010 and this chapter, the official(s) designated by the city manager shall:

- A. Determine 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,
- B. Upon the filing of a sufficient petition or adoption of a resolution, cause an estimate to be made of the cost and expense of the proposed improvement and certify it to the hearing examiner, together with all papers, information and diagrams as required.
- C. Order the publication of notice and give notice by mail for all public hearings and as otherwise required.
- D. File the complete assessment roll with the city clerk who shall notify the hearing examiner of such filing.
- E. Perform any other duties assigned by the city manager to satisfy the requirements of this chapter.

15.04.040 Hearing examiner's duties – Public Hearings.

In accordance with the provisions adopted by reference in Section 15.04.010 and this chapter, the city council hereby designates the City of Bellevue Hearing Examiner, appointed under Chapter 3.68 BCC, to fix the dates and conduct all public

hearings for the purpose of considering the formation of local improvement districts and hearings to consider final assessment rolls and the individual assessments upon property within local improvement districts. The hearing examiner shall make recommendations to the City Council following the completion of such hearings for final action.

15.04.050 Assessment roll – Hearing and Appeal.

At the time fixed for hearing on the assessment roll and at the times to which such hearing may be continued, the hearing examiner shall consider all objections filed, following which the hearing examiner shall make recommendations that the council correct, revise, raise, lower, change or modify the roll or any part thereof, or set aside the roll and order the assessment to be made de novo, or that the council adopt or correct the roll or take other action on the roll. The city council shall adopt or reject the recommendation of the hearing examiner at a public meeting; provided that any person who shall have timely filed an objection to his or her assessment, in accordance with the provisions of this chapter, may appeal the recommendation of the hearing examiner to the city council by filing written notice of such appeal with the city clerk within 10 days of the date of mailing of the hearing examiner's recommendation. The appeal shall be based upon the record made before the hearing examiner and shall be considered by the council at a public meeting in accordance with the city council's rules of procedure. Confirmation of the roll shall be by ordinance.

15.04.060 Assessment payments – Penalty.

In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract and parcel of land or other property, or any portion thereof, may be paid during the 30-day period allowed for the payment of assessments without penalty or interest, and that thereafter the sum remaining unpaid may be paid in equal annual installments. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvement are to run. Interest on the whole amount unpaid at the rate fixed by the ordinance levying the assessment shall be due on the due date of each installment of principal. The first installment shall become due and payable during the 30-day period succeeding a date one year after the date of first publication of the treasurer's notice, and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of any assessment remains unpaid after the first 30-day period herein provided for, interest upon the whole unpaid sum shall be charged at the rate fixed in the ordinance levying the assessment, and each year thereafter one of the installments, together with interest due upon the whole of the unpaid balance, shall be collected. Any installment not paid prior to the expiration of the 30-day period during which such installment is due and payable shall thereupon become delinquent. All delinquent installments, in addition to the interest payable as provided in the ordinance levying the assessment, shall be subject to a penalty charge of five percent levied upon both principal and interest due on such installment or installments.

15.04.070 Acceleration of payments.

In case any installment is not paid when due, the entire assessment shall become due and payable and the collection thereof enforced by foreclosure; provided, that the payment of all delinquent installments together with interest, penalty and costs at any time before entry of judgment in foreclosure shall extend the time of payment on the remainder of the assessments as if there had been no delinquency or foreclosure. Where foreclosure of two installments of the same assessment on any lot, tract, or parcel is sought, the city or town treasurer shall cause such lot, tract, or parcel to be dismissed from the action, if the installment first delinquent together with interest, penalty, administrative costs, and charges is paid at any time before sale.

15.04.080 Foreclosure of assessment lien.

Proceedings for foreclosure of local improvement district assessment liens for default in payment shall be conducted as authorized by Chapter 35.50 RCW. The date before which such foreclosure proceedings shall be commenced in any year shall be October 1st.

15.04.090 Report of collection on bond installment.

In case the improvement is made on the bond installment plan, the city treasurer shall, at the expiration of 30 days after the first publication of the notice to pay assessment, report to the city council the amount collected by him upon the said roll and shall specify in said report the amount remaining unpaid upon the said roll, and the city council may then, or at a subsequent meeting, by ordinance, direct the mayor and city clerk to issue the bonds on the local improvement district established by the ordinance ordering the improvement in an amount equal to the amount remaining unpaid on said assessment. Said ordinance shall specify the denomination of the bonds which, except for bond numbered "One," shall be in multiples of \$100.00 each.

15.04.100 Collection and segregation of assessments.

Whenever any land against which there has been levied any special assessment by the city shall have been sold in part or subdivided, the city council shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply in writing to the city. If the city council determines that a segregation should be made, it shall by resolution order the city treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the city or town treasurer who shall proceed to make the segregation ordered upon being tendered payment of the fees hereinafter provided. No segregation need be made if the council shall find that by such segregation the security of the lien for such assessment will be so jeopardized as to reduce the

security for any outstanding local improvement district obligations payable from such assessment. In such instance the city treasurer shall determine such question of fact. Nor shall segregation be made of any assessment which has been delinquent for a period of two years or more. No segregation of any assessment on unplatted lands or large platted tracts shall be made until a plat thereof has been furnished to the designated official by the applicant for segregation showing that the proposed segregation of property will conform to the system of streets as platted in adjacent territory. In all such instances the designated official shall determine such question of fact.

15.04.110 Local improvement guaranty fund.

In accordance with Chapter 35.54 RCW, the city establishes and creates a fund for the purpose of guaranteeing, to the extent of such fund, the payment of its local improvement bonds and warrants issued to pay for any local improvement ordered in local improvement districts in the city or in an area wholly or partly outside its corporate boundaries subsequent to May 27, 1956. This fund shall be known and designated as "local improvement guaranty fund."

15.04.120 Use of fund.

Whenever any interest coupon, bond or warrant guaranteed under the provisions of the laws of the state in pursuance of which this chapter is passed shall be in default, the city clerk shall be and is authorized and directed, upon the presentation and delivery of such defaulted bond, coupon or warrant, to execute, sign and deliver to the person or persons presenting the same, in the order of their presentation, and the treasurer 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 city clerk under the provision of this chapter shall be held for the benefit of said local improvement guaranty fund.

15.04.130 Warrants against guaranty fund.

Warrants drawing interest at a rate not to exceed six percent shall be issued, as other warrants are issued by the city, against the said local improvement guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy, the city shall provide for the levying of a sum sufficient, with other resources of the fund, to pay warrants so issued during the preceding fiscal year and to establish a balance therein; provided, that such warrants shall at no time exceed five percent of the outstanding bond obligations guaranteed by said fund.

Section 3. Section 3.68.200 of the Bellevue City Code is hereby amended as follows:

3.68.200 Hearing examiner.

The purpose of this chapter is to establish the Office of Hearing Examiner and the authority of the hearing examiner, which shall include conducting administrative hearings and other proceedings as prescribed by this code or other city ordinance,

and to provide an administrative land use regulatory system which will best satisfy the following basic needs:

- A. The need to separate the city's land use regulatory function from its land use planning function;
- B. The need to ensure and expand the principles of fairness and due process in public hearings; and
- C. The need to provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters.

Section 4. Section 3.68.220 of the Bellevue City Code is hereby amended as follows:

3.68.220 Office of hearing examiner.

The hearing examiner shall exercise the authority of the hearing body, designated in Bellevue land use code and Bellevue city code for the land use matters set forth in BCC 3.68.250. Hearings held by the hearing examiner shall constitute the hearings required by state law for such land use matters. The hearing examiner shall also have any duties and related authority prescribed to the hearing examiner by this code or other city ordinance.

Section 5. Section 3.68.250 of the Bellevue City Code is hereby amended as follows:

3.68.250 Powers.

A. The examiner shall have the authority to and shall conduct public hearings and prepare a record thereof, and enter written findings and conclusions, recommendations or decisions for the following land use matters:

- 1. Applications for reclassifications;
- 2. Applications for conditional uses;
- 3. Applications for conditional uses in shorelines overlay districts;
- 4. Applications for planned unit developments;
- 5. Applications for plats;
- 6. Appeals of administrative short plat decisions;
- 7. Appeals of State Environmental Policy Act threshold determinations; and
- 8. Any other matter designated by this code or other city ordinance.

B. The examiner's decision shall be based upon the policies of the comprehensive plan, Shorelines Management Act, State Environmental Policy Act, the standards set forth in the various land use regulatory codes of the city, or any other applicable program adopted by the city council. The examiner may attach reasonable conditions found necessary to make a project compatible with its environment and to carry out the goals and policies of the city's comprehensive plan, shoreline master program, or other applicable plan or program adopted by the city council.

Such conditions may include but are not limited to the following:

- 1. Exact location and nature of development, including additional building and parking area setbacks, screenings in the form of landscaped berms, landscaping, or fencing;
- 2. Impact of the development upon other lands;

3. Hours of use of operation or type and intensity of activities;
4. Sequence and scheduling of development;
5. Maintenance of the development;
6. Duration of use and subsequent removal of structures;
7. Granting of easements for utilities or other purposes and dedication of land or other provisions for public facilities, the need for which the examiner finds would be generated in whole or in significant part by the proposed development;
8. Mitigation of any adverse environmental impacts; and
9. Provisions which would bring the proposal into compliance with the comprehensive plan policy.

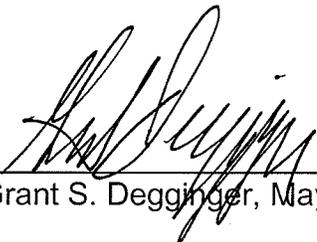
C. The examiner shall have any duties and related authority prescribed to the hearing examiner by this code or other city ordinance.

D. The examiner shall have the power to prescribe rules and regulations concerning procedures for hearings and other proceedings authorized herein, subject to confirmation by the city council, to issue summons for and compel the appearance of witnesses, to administer oaths and to preserve order. The privilege of cross-examination of witnesses shall be accorded all interested parties or their counsel in accordance with rules of the examiner.

Section 6. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 15th day of June, 2009,
and signed in authentication of its passage this 15th day of June,
2009.

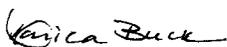
(SEAL)



Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney



Monica Buck, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

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