

CITY OF PALMER, ALASKA

ORDINANCE NO. 196

AN ORDINANCE REPEALING ORDINANCE NO. 64, AND PROVIDING FOR SPECIAL ASSESSMENTS AND PUBLIC IMPROVEMENTS.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Repealer Ordinance No. 64 is hereby repealed but all public improvements, improvement districts, assessments and levies heretofore made shall continue in full force and effect.

Section 2. Special Assessment Districts The Council may assess against the real property benefitted all or any part of the cost of acquiring property interests for and the design, plans, specifications, administration, engineering, architectural, legal expense, construction, repair, reconstruction or other improvement of all or any part of a public improvement. When more than one property is to be specially benefitted the project is considered a special assessment district. A special assessment district may be initiated by:

- (1) Petition to the council by the owners of property bearing a percentage of the cost of the property to be benefitted, or
- (2) The council.

Section 3. Procedures for Initiation of Districts

(a) Procedure by petition.

(1) Form and Requirements. The petition shall be in a form prescribed by the City Manager and shall include a description of the improvement sought by the petition. The original or copies of the petition shall be signed by the owners of properties which will bear at least fifty per cent (50%) of the estimated cost of the improvement sought by the petition. The petition when signed shall be filed with the City Clerk. No property owner may withdraw his signature of approval for three months after the petition has been filed with the City Clerk, unless authorized by council.

(2) City Manager Action. Upon receipt by the City Manager of the petition from the City Clerk, the City Manager shall make a survey and report to the council concerning the need for and the estimated cost of the district. The report shall contain a plan defining the district, outlining the properties to be assessed and showing the desirable extent of the proposed improvement. The district may be defined (i) by a boundary description; or (ii) by a designation of the properties to be assessed within the district by lot, block, and subdivision, or if unsubdivided by other appropriate designation, which designation may generally refer to streets, alleys, intersections and all other public properties and rights-of-way to be included within the district as "and included public streets, rights-of-way and properties." The survey and report of the city manager may be made either before or at the time of a public hearing on the necessity for the proposed improvement.

(3) Public Hearing. After the notices of the hearing required in this section are given, the council shall hold a public hearing upon the necessity for the proposed improvement. The council or city manager shall fix the time and place of the public hearing which may be continued from time to time as the council may decide. After hearing the interested persons favoring or opposing the proposed improvement, the council may decrease the extent or value of the improvement, or may delete from the district properties not benefitted in whole or in part by the improvement. No change may be made resulting in an improvement district containing petitioners of properties bearing less than fifty per cent (50%) of the estimated costs, unless other sufficient property owners are added to the petition prior to council action on the petition.

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(4) Council Action. After the public hearing is closed, the council shall adopt a resolution determining either to proceed or not to proceed with the proposed improvement. The council resolution to proceed shall find that the improvement is necessary and of benefit to the properties to be assessed, and that the petition for the improvement has been signed by sufficient and proper petitioners. The findings of the council are conclusive. The resolution shall require an account to be kept of all costs of the improvement and direct the city manager to prepare the assessment roll. The council in the resolution shall assess the authorized percentage or rate of the costs of the improvement against the properties within the district.

(5) Assessment Roll. After the improvement has been completed and the costs of the improvement computed, the city manager shall prepare an assessment roll for the special assessment district. The assessment roll shall contain as to each property to be assessed, a brief description or designation of the property, the name of the owner or reputed owner of the property to be assessed and the amount assessed against the property. When the assessment roll is completed, the council or city manager shall fix a time and place for a public hearing on objections to the assessment roll. The notices required in this section shall be given before the hearing.

(6) Public Hearing, Objections. At the public hearing an owner of property to be assessed shall have the right to present his objection to the assessment roll by showing errors and inequalities in the assessment roll and submitting any reason for amendment and correction of the assessment roll. The public hearing may be continued from time to time as the council shall decide. After the public hearing, the council may correct any error or inequality in the assessment roll. When the roll is finally determined, the city clerk shall so certify.

(7) Confirmation. After the public hearing and determination of the assessment roll, council by resolution shall confirm the special assessment roll of the special assessment district. The resolution shall provide for the levy and the payment schedule of the assessment.

(8) Notice. Notice by publication and mail shall be given of any public hearing required in this section. Notice of the public hearing shall be published in a newspaper of general circulation in the city at least once a week for two (2) consecutive weeks prior to the time fixed for the hearing. The city clerk shall send a written notice by first class mail at least fifteen (15) days prior to the time of the hearing to each owner of property to be assessed. The notice to be published shall include a summary of the improvement, the designation of the properties to be assessed in the special assessment district, the purpose of the public hearing, and the time and place fixed for the public hearing. The notice by mail shall include a summary of the improvement, the designation of the addressee's property to be assessed, the purpose of the public hearing, the amount of estimated or actual assessment against the property and the time and place fixed for the public hearing. Each notice shall generally inform the property owner of the manner and method of protesting or objecting to the action to be taken at the public hearing.

(b) Procedure for council initiated district.

(1) Initiation. The council by motion or other action may direct the city manager, or approve his request to make a survey and report on a proposed council initiated special assessment district.

(2) City Manager Action. Upon direction of the council the city manager shall make a survey and report to the council concerning the need for and the estimated cost of the district. The report shall contain a plan defining the district, outlining the properties to be assessed and showing the desirable extent of the proposed improvement. The district may be defined (i) by a boundary description, or (ii) by a designation of the properties to be assessed within the district by lot, block and subdivision, or if unsubdivided by other appropriate designation, which designation may generally refer to the streets, alleys, intersections and all other public properties and rights-of-way to be included within the district as "and included public streets, rights-of-way and properties." The survey and report of the city manager may be made either before or at the time of a public hearing on the necessity for the proposed improvement.

(3) Public Hearing. The council shall hold a public hearing on the necessity for the local improvement after the notice of hearing required in this section is given. The council or city manager shall fix the time and

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place of the public hearing which may be continued from time to time as the council decides. If protests in writing as to the necessity of a local improvement are made by the owners of property who shall bear fifty per cent (50%) or more of the estimated cost of the improvement, the council shall not proceed with the improvement until the protests have been reduced to less than fifty per cent (50%), except upon the approval of at least five (5) members of the council. After hearing all interested persons favoring or opposing the proposed improvement, the council may decrease the extent or value of the improvement, and may delete from the district properties not benefitted by the improvement.

(4) Council Action. After the public hearing is closed, council shall adopt a resolution determining either to proceed or not to proceed with the proposed improvement. The council resolution to proceed shall find that the improvement is necessary and will benefit the properties within the district. The findings of the council are conclusive. The resolution shall require an account to be kept of all costs of the improvement and direct the city manager to prepare the assessment roll. The council in the resolution shall assess the authorized percentage or rate of the costs of the improvement against the property within the district.

(5) Assessment Roll. After the improvement has been completed and the costs of the improvement computed, the city manager shall prepare an assessment roll for the special assessment district. The assessment roll shall contain as to each parcel of property to be assessed, a brief description or designation of the parcel, the name of the owner or reputed owner of the parcel and the amount assessed against the parcel. When the assessment roll is completed, the council or city manager shall fix a time and place for a public hearing on objections to the assessment roll. The notices required in this section shall be given before hearing.

(6) Public Hearing Objections. At the public hearing an owner of property to be assessed shall have the right to present his objection to the assessment roll by showing errors and inequalities in the assessment roll and submitting any reason for amendment or correction of the assessment roll. The public hearing may be continued from time to time as the council shall decide. After the public hearing, the council may correct any error or inequality in the assessment roll. When the roll is finally determined, the city clerk shall so certify.

(7) Confirmation. After the public hearing and determination of the assessment roll, the council by resolution shall confirm the special assessment roll of the special assessment district. The resolution shall provide for the levy and payment schedule of the assessments.

(8) Notice. Notice by publication and mail shall be given of any public hearing required in this section. Notice of the public hearing shall be published in a newspaper of general circulation within the city at least once a week for two (2) consecutive weeks prior to the time fixed for the hearing. The city clerk shall send a written notice by first class mail at least fifteen (15) days prior to the time of the hearing to each owner of property to be assessed. The notice to be published shall include a summary of the improvement, the designation of the properties to be assessed in the special assessment district, the purpose of the public hearing, and the time and place fixed for the public hearing. The notice by mail shall include a summary of the improvement, the designation of the addressee's property to be assessed, the purpose of the public hearing, the amount of estimated or actual assessment against the property and the time and place fixed for the public hearing. Each notice shall generally inform the property owner of the manner and method of protesting or objecting to the action to be taken at the public hearing.

Section 4. Property Assessed. The council may assess for an improvement any real property specially benefitted, or any interest in real property specially benefitted, and the property specially benefitted may include abutting, adjoining, adjacent, contiguous, noncontiguous or other property or interests in property benefitted directly or indirectly by the improvement. The property to be assessed may include any property which is otherwise for any reason exempt from taxation by law. A benefitted property may be included in whole or in part in more than one special assessment district.

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Section 5. Property Owner. The person whose name is listed on the latest borough tax roll as the owner of the property to be assessed is presumed to be the legal owner of the property. If the property owner is unknown the property may be assessed in the name of the "unknown owner". No assessment is invalidated by a mistake, omission or error in the name of the owner if the property is correctly described.

Section 6. Amount Assessed. The council may assess one hundred per cent (100%) of any or all costs of a public improvement against each parcel of property benefitted by the improvement. Unless a specific method of computation of the benefit to the property is expressly provided for ascertaining the amount to be assessed against the property benefitted by a designated improvement, the council shall assess each parcel of property in a special assessment district in proportion to, and not to exceed the value of the benefits received from the improvement.

Section 7. Costs. The costs of an improvement shall be the actual costs of the improvement, including acquisition of interests in land for the improvement, design, engineering, administration, overhead, professional services, bond costs and interest incurred as a result of the improvement, and all other costs resulting from the construction of the improvement. Bond interest shall be calculated from the first date when any actual costs are incurred by the city.

Section 8. Amount of Assessment, Street Improvement.

(a) Definitions. As used in this section "street to be improved" includes any street, road, parkway, alley, curb and gutter, or sidewalk between intersections within the special assessment district. An "intersection" is that portion of property enclosed by the intersection of the street margin lines of intersecting streets. A "driveway" is that portion of a street, alley or sidewalk requiring special or different construction because of the presence of an abutting driveway upon the benefitted property.

(b) Extent of Special Assessment District. A street special assessment district shall include, unless otherwise provided by the resolution to proceed with the district, the property to be assessed for each street to be improved and the property to be assessed for each abutting or adjacent street intersection. A district may include assessments for driveways and curb cuts. Unless otherwise provided in the resolution to proceed with the district, the area specially benefitted by a street to be improved shall include all the property between the intersections and abutting, adjacent, vicinal or proximate to the street to be improved within a distance of not less than ninety feet (90') from the marginal line of the street to be improved back to the center line of the block adjoining or abutting on the street to be improved. Unless otherwise provided in the resolution to proceed with the district, the area specially benefitted by the intersection improvement includes all of the property, except streets and alleys within each area bounded by the marginal lines of the intersecting streets and the center lines of each abutting or adjacent block parallel to the respective marginal lines at the intersecting streets, which center lines shall be at least ninety feet (90') from the marginal lines of the intersecting streets. In the event any benefitted property is unplatted or no reasonable center line may be established, the distance from the margins back to the center lines shall be the same distance as established in an adjacent subdivision.

(c) Total assessment. Total assessment for each parcel of property shall be computed by adding the assessment for the improvement between intersections and the assessment for the improvement within the intersection, together with any individual assessment against that parcel for a driveway or curb cut.

(d) Zones. The property abutting or adjoining the street to be improved shall be divided into zones paralleling the margins of the street to be improved and numbered first, second, third, and fourth. The first zone shall include all property lying between the margins and lines parallel with and thirty feet (30') from the margins. The second zone shall include all property lying between lines parallel with and thirty feet (30') and sixty feet (60') from the margins. The third zone shall include all property lying

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between the lines parallel with and sixty feet (60') and ninety feet (90') from the margins. The fourth zone shall include all property, if any, lying between lines parallel with and ninety feet (90') from the margins and the outer boundary of the district.

(e) Rate of assessment of improvement between interesections.

The rate of assessment per square foot for the improvement between intersections shall be determined on the basis that special benefits conferred on a square foot of land in zones first, second, third, and fourth respectively are weighted in the same proportion as are the numbers 45, 25, 20 and 10, respectively. The rate shall be computed in the following manner:

- (i) The products of the number of square feet of property within zones first, second, third and fourth respectively, and the numbers 45, 25, 20, and 10 respectifely, shall be ascertained and their total sum taken, which total sum shall be divided into the costs of the improvement in order to determine the quotient.
- (ii) The products of the resulting quotient and the numbers 45, 25, 20 and 10 respectively shall be the respective rates of assessment per square foot for zones first, second, third and fourth respectively.
- (iii) The amount to be assessed against each parcel for the assessment of the improvement between intersections is computed by adding the products of the rates and the square footage of the respective zones within the parcel.

(f) Intersection Improvement. The rate of assessment per square foot for an intersection improvement shall be computed by dividing the costs of the intersection improvement by the square footage of the area to be benefitted by the intersection improvement within the district, as the assessment is computed on the basis of the benefits being equal throughout this area.

(g) Driveway and curb cut. The costs of providing a driveway or curb cut for a property requiring a driveway or curb cut may be assessed against that property.

(h) Sewer and water connections. Upon application of the property owner a sanitary sewer or water connection may be constructed to a property benefitted by the street improvement and the costs of the connection may be assessed against that property.

Section 9. Notice of assessment; contents; service.

Within thirty (30) days after the resolution confirming the assessment roll and fixing the date of delinquency, the treasurer shall mail with postage prepaid a notice to the owner of each property assessed. The notice shall designate the property, the amount of the assessment, the schedule of payments and delinquencies and the amount of the penalty and interest. Not more than sixty (60) nor less than thirty (30) days before the date of the assesment or the first installment of the assessment becomes delinquent, the treasurer shall mail a payment notice to each property owner, but the failure to mail the notice shall in no way affect any liability for or enforcement of payment of all or any part of the special assessment.

Section 10. Payment of Assessment; Delinquency; Interest & Penalty

The council in the resolution confirming the assessment roll shall fix a schedule of dates when the special assessment or special assessment installment payments become due and delinquent. Deferred or installment payments may bear interest, from the date of the confirmation of the assessment roll until paid. No payment shall be required within sixty (60) days after the resolution. A penalty of eight per cent (8%) shall be added to any assessment or assessment installment not paid before the date of delinquency, and both the assessment and penalty shall draw interest at the rate of eight per cent (8%) per annum until paid.

Ordinance No. 196 (continued)Section 11. Lien, Procedure for Collection.

A special assessment shall be a first lien prior and paramount to all liens except city and borough real property tax liens, upon the property assessed from the time the special assessment is levied in the resolution confirming the assessment roll, and the lien shall be of the same character, effect and duration as a lien for city and borough real property taxes. A lien for a special assessment may be collected, foreclosed and otherwise enforced in accordance with the procedures provided for the collection, foreclosure and enforcement of municipal tax liens on real property, and no person shall have any right to repurchase or redeem the tax foreclosed property except as provided by such procedures. The city may devote the property to a public purpose or use by resolution or other action of the council showing the council's intent to devote the property to a public purpose or use. The city shall have the cumulative remedy for collection of a special assessment by civil action against the property owner for debt or foreclosure with the right of redemption as provided by law for real property mortgage foreclosures. The remedies provided by this section may apply to reassessments.

Section 12. Limitations on Suits and Actions.

No special assessment procedure shall be contested in any civil action, unless commenced within sixty (60) days after the confirmation of the special assessment roll for the assessment. If no such action be so commenced, the procedure shall be conclusively presumed to have been regular and complete.

Section 13. Waiver of Objections.

The irregularity or validity of any special assessment procedure is waived and may not be contested or questioned in any manner in any proceeding whatsoever by any person not filing a written objection to the assessment roll prior to its confirmation.

Section 14. Cumulative enforcement.

The collection, foreclosure or enforcement of any installment or any part of a special assessment shall not bar, prevent or otherwise extinguish the right of the city to collect, foreclosure or enforce the payment of any other installment or part of the same or any other special assessment.

Section 15. Appeal.

The decision of the council upon any objection to the assessment roll may be reviewed by the Superior Court, Third Judicial District, Alaska, in the manner provided by law.

Section 16. Application of State Law.

The city retains any right or procedure, not otherwise inconsistent with the provisions of this chapter, granted by law to a first class or home rule charter city for local improvements and special assessments.

Section 17. Correction of Invalid Special Assessments.

(a) If any special assessment procedure of the council shall be irregular or invalid for any reason, the council may correct the same at any time within ninety (90) days after the confirmation of the special assessment roll or after final determination of any litigation thereon, whether before or after the completion of the local improvements to which the special assessment applies.

(b) In the event that a court of competent jurisdiction orders that any or all of a special assessment may not be assessed or enforced by the council because of any irregular or invalid special assessment procedure, the council may make a new assessment or reassessment upon the properties specially benefitted by the improvement by adopting a resolution to make a new assessment or a reassessment of the properties specially benefitted by the improvement. The council in the resolution shall provide for the time and date of a public hearing on the new assessment or reassessment, shall direct the city manager to prepare the assessment roll and shall assess the appropriate assessment against the property in the district. The previous findings of benefit and necessity for the improvement shall continue in full force and effect in any assessment or reassessment unless invalidated by a court order.

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(c) In the event that findings of necessity and benefit are necessary to correct the irregular or invalid special assessment procedure, the council may proceed to make a new assessment or reassessment of the property specially benefitted by initiating a council initiated special assessment district.

- (d) (1) In any new assessment or reassessment by the council all sums paid upon the former assessment shall be credited to the property upon any new assessment or reassessment and the new assessment or reassessment shall to that extent be deemed satisfied;
- (2) If a refund, rather than a credit, is determined, then the council in the resolution confirming the assessment roll shall provide for a refund to the person having paid the amount of assessment to be refunded;
- (3) No interest or penalty shall be charged by virtue of the fact that the original assessment was not pursued to completion.

(3) The new assessment or reassessment when completed shall be enforced and collected in the same manner that special assessments are enforced and collected.

Section 18.

Publication of this ordinance shall be by posting a copy thereof on the City Hall bulletin board for a period of ten days following its passage and approval.

First Reading: August 10, 1976
Second Reading: August 24, 1976

Passed and approved by the City Council of the City of Palmer, Alaska, this 24th day of August, 1976.



JACK E. MAZE, MAYOR



WILLIAM E. CURTIS, CITY CLERK