

*Sec XVII Amended #395*

*Repealed by 994*

ORDINANCE NO. 311

AN ORDINANCE RELATING TO LOCAL IMPROVEMENTS IN THE TOWN OF KIRKLAND  
BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF KIRKLAND  
AS FOLLOWS:-

SECTION I.

METHOD OF PROCEDURE

Whenever the Town Council shall provide for local improvements, this ordinance and ordinances amendatory thereof shall apply.

SECTION II.

VOTE REQUIRED

No ordinance relating to local improvements shall be deemed passed unless the same shall have received the affirmative vote of at least a majority of all the members of the Town Council.

SECTION III.

AWARD OF CONTRACT AND MANAGEMENT OF WORK

After the Council shall have provided by ordinance for the making of any local improvement, plans therefor shall be approved and the contract let by the Council and the work shall then be supervised by the Engineer.

SECTION IV.

MODES OF PAYMENT

There shall be two (2) modes of payment for the portion of the cost and expense of any local improvement contemplated by this ordinance, and payable by special assessment, to-wit: "Immediate Payment" and "Payment by Bonds." The mode adopted shall be the mode petitioned for in case said improvement shall be made upon petition, otherwise the mode shall be the one which the council shall designate in the ordinance ordering such improvement.

SECTION V.

THE ASSESSMENT ROLL

After the Town Council has by ordinance approved the making of any local improvement and not less than five (5) days prior to the date fixed by the Engineer for the completion of the improvement (except as the time for filing said roll may be extended by the Town Council), the Engineer shall file with the Town Clerk an assessment roll which he shall have prepared, which shall contain the description of each lot, tract, parcel of land or other property to be assessed; the amount to be charged, levied or assessed against the same, and the name of the owner thereof, if known, but in no case shall a mistake in the name of the owner be fatal when the description of the property is correct.

The Town Council upon receipt of such assessment roll shall fix a date for hearing thereon and shall direct the clerk to give notice of such hearing and the time and place thereof. Such notice shall be published at least two (2) times in the official weekly newspaper of the Town of Kirkland: Provided, that at least fifteen (15) days must elapse between the date of last publication thereof and the date fixed for such hearing. At the time fixed for such hearing, the Town Council shall sit as a Board of Equalization for the purpose of considering such assessment roll, and as soon thereafter as the Clerk shall have certified to them a statement of the total charges against the district, shall adjust the roll in conformity thereto.

The ordinance confirming any assessment roll shall levy and assess against each lot, tract, parcel of land or other property appearing upon such roll the amount charged against the same. Upon the enactment of such ordinance, the roll shall be

delivered to the Clerk, who shall forthwith transmit the same to the Town Treasurer with his certificate that the same has been duly approved by ordinance, and annually thereafter, in the case of assessments payable by the mode of "Payment by Bonds," the treasurer shall extend the instalments of principal and interest upon the unpaid balance as shown upon said approved roll.

#### SECTION VI.

##### MODE OF IMMEDIATE PAYMENT

Whenever the cost and expense of any improvement shall be payable by the mode of "Immediate Payment," the Treasurer shall, upon receipt of such roll, publish a notice in the official weekly paper of the Town for two (2) consecutive issues that the said roll is in his hands for collection and that any assessment or any portion thereof may be paid at any time within thirty (30) days from the date of the first publication of said notice, without penalty, interest or costs, and that unless payment be made within such time, such assessment or unpaid portion thereof will become delinquent. Upon delinquency a penalty of five (5%) per cent. shall attach to, and become a part of, all such assessments. Delinquent assessments shall bear interest at the rate of eight (8%) per cent. per annum until paid. Such delinquent assessments with penalty and interest shall forthwith be collected and the lien thereof be enforced in the manner provided by law and the ordinances of the Town of Kirkland.

#### SECTION VII.

##### MODE OF PAYMENT BY BONDS

Whenever the cost and expense of any improvement shall be payable by the mode of "Payment by Bonds," the Town Treasurer shall publish a notice in the official weekly newspaper of the Town for two (2) consecutive issues as provided by law.

of first publication of the Treasurer's notice referred to in Section 7 of this ordinance, the Town Treasurer shall report to the Town Clerk the total amount of the assessment, the total amount paid on the principal thereof during said thirty day period, and the total amount unpaid; whereupon bonds of the local improvement district established by the ordinance providing for such improvement shall be issued in an amount equal to the amount remaining unpaid on said assessment roll as shown by such report. The bonds herein provided for shall not be issued prior to twenty (20) days after the expiration of the thirty (30) days above mentioned. Such bonds shall be in denomination of Two Hundred (\$200.00) Dollars each, except bond numbered one (1), which shall be in an amount not to exceed Four Hundred(\$400.00) Dollars; Provided, that the Town Council may, by ordinance, designate, different denominations for such bonds. Such bonds shall be numbered from one (1) upward, consecutively, and each bond and coupon shall be signed by the Mayor and attested by the Town Clerk; Provided, however, that said coupons may, instead of being so signed, have printed thereon the facsimile of the signature of said officers, and each bond shall have the seal of the Town impressed thereon, and shall refer to the improvement to pay for which the same shall be issued and to the ordinance ordering the same.

#### SECTION XI.

##### TERMS OF BONDS: INTEREST

That such bonds by their terms shall be made payable on or before a date not to exceed twelve (12) years from and after the date of the issue of such bonds, which latter date may be fixed by resolution or ordinance of the Town Council, and shall bear interest not exceeding eight per cent (8%) per annum as may be fixed in the ordinance authorizing the issuance thereof, which

interest shall be payable annually. Each bond shall have attached thereto interest coupons for each interest payment.

SECTION XII.

FORM OF BONDS

All local improvement bonds shall be in substantially the following form:

"Local Improvement Bond, District No. \_\_\_\_\_ of the Town of Kirkland, State of Washington, No. \_\_\_\_\_. The laws of the State of Washington, under which this bond is issued, contain the following provisions:

" 'Section 5. (Chap. 209, Session Laws 1927) Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor against the City or town by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the Local Improvement Guaranty Fund of such city or town, and the city or town shall not be liable to any holder or owner for such bond or warrant for any loss to the Guaranty Fund occurring in the lawful operation thereof by the city or town. The remedy of the holder or owner of a bond or warrant in case of non-payment, shall be confined to the enforcement of the assessment and to the Guaranty Fund. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond issued and guaranteed hereunder and the writing, printing or engraving shall be deemed sufficient compliance with the requirements of Section 9405 of Remington Compiled Statutes.'

"The Town of Kirkland, a municipal corporation of the State of Washington, hereby promises to pay to \_\_\_\_\_ or bearer, T \_\_\_\_\_ Dollars, lawful money of the United

States, with interest thereon at the rate of \_\_\_\_\_ per cent. per annum, payable annually, out of the fund established by Ordinance No. \_\_\_\_\_ of said Town, and known as 'Local Improvement Fund, District No. \_\_\_\_\_', and not otherwise, both principal and interest payable at the office of the Town Treasurer of said Town.

"A coupon is hereto attached for each instalment of interest to accrue hereon and said interest shall be paid only on presentation and surrender of such coupons to the Town Treasurer.

"The Town Council of said Town, as the agent of said Local Improvement District established by said ordinance, has caused this bond to be issued in the name of said Town, as the bond of said local improvement district, the bond or the proceeds thereof to be applied in part payment of so much of the cost and expense of the improvement of \_\_\_\_\_ under said ordinance as is levied and assessed against the property included in said local improvement district and benefited by said improvement and the said local improvement fund has been established by ordinance for said purpose, and the holder or holders of this bond shall look only to said fund and the Local Improvement Guaranty Fund created by Chapter 209, Session Laws, 1927, for the payment of either the principal or the interest of this bond.

"This bond is one of a series of \_\_\_\_\_ bonds aggregating in all the principal sum of \_\_\_\_\_ Dollars, issued for said local improvement district, all of which bonds are subject to the same terms and conditions as herein expressed.

"This bond is payable on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, but is subject to call by the Town Treasurer for prior redemption on any interest date, which call

for payment shall be made by said Treasurer by publishing the same in the official newspaper of said Town and when such call is made, this bond will be paid on the day the next interest coupon thereon shall become due after said call, and upon said day interest upon this bond shall cease, and each and every coupon representing interest not accrued upon said day shall be void.

"IN WITNESS WHEREOF, The Town of Kirkland has caused these presents to be signed by its Mayor and attested by its Town Clerk and sealed with its corporate seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord One Thousand Nine Hundred and \_\_\_\_\_.

"THE TOWN OF KIRKLAND,

By \_\_\_\_\_

(SEAL)

Mayor.

Attest:

\_\_\_\_\_  
Town Clerk."

COUPONS, NUMBER AND FORM: There shall be attached to each bond such number of coupons as shall be required to represent the interest thereon, payable annually, for the term of said bonds, which coupons shall be in substantially the following form:

"The Town of Kirkland Interest Coupon No. \_\_\_\_\_, Interest \$ \_\_\_\_\_. On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, The Town of Kirkland, Washington, promises to pay to the bearer at the office of the Town Treasurer. \_\_\_\_\_ Dollars, being one year's interest due that day on Bond No. \_\_\_\_\_ of the bonds of 'Local Improvement Fund District No. \_\_\_\_\_; Provided, that this coupon is subject to all the terms and conditions contained in the bond to which it

is annexed.

"THE TOWN OF KIRKLAND

Attest:

"By \_\_\_\_\_

"Mayor.

\_\_\_\_\_  
"Town Clerk."

SECTION XIII.

BOND REGISTRY

The Town Clerk shall keep in his office a register of all such bonds issued. He shall enter therein the local improvement fund district number, for which the same are issued, and the date, amount and number of each bond and term of payment.

SECTION XIV.

DELINQUENT ASSESSMENTS; FORECLOSURE

Whenever on the first day of January of any year two instalments of any local improvement assessment payable by the mode of "Payment By Bonds" shall be delinquent, or the final instalment of any such assessment, or any assessment payable by the mode of "Immediate Payment," shall have been delinquent for more than one year, the Town Treasurer shall, on or before the first of July of such year, proceed with the foreclosure of all such delinquent assessments or instalment or instalments thereof, as the case may be, by proceedings in court therefor in an action brought in the name of the Town of Kirkland in the Superior Court of the State of Washington for King County, as provided by law.

SECTION XV.

CALL AND PAYMENT OF WARRANTS

It shall be the duty of the Town Treasurer to call and pay in numerical order such outstanding warrants against any particular improvement fund as he may be able to pay with the money on hand credited to such fund, and whenever he shall have money on hand to the credit of such fund, but not sufficient to pay the whole of the next succeeding outstanding warrant, he may call in and pay such portion thereof as shall exhaust the amount of such



fund; Provided, however, that the Town Treasurer may call the warrants issued to the contractor on estimates of the Engineer in any local improvement district as soon as the Town Council, has, by resolution or ordinance, fixed a date for the issuance of bonds in such local improvement district.

Whenever the Town Treasurer shall pay a portion of any warrant as above provided, he shall endorse upon such warrant the date and amount of such payment and take a receipt from the holder thereof, showing the number and description of such warrant and the date and amount so paid, which receipt the said Treasurer shall return with his report to the Town Clerk as a voucher for the money so paid.

#### SECTION XVI.

##### LOCAL IMPROVEMENT CONTRACTS

In letting contracts for local improvements, the Town Council shall provide that there shall be reserved from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to fifteen (15%) per cent. of such estimates, as a trust fund for the protection and payment of any person or persons, mechanics, sub-contractors or material men who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or sub-contractors with provisions and supplies for the carrying on of such work. Said fund shall be retained for a period of thirty (30) days following the final acceptance of said improvement or work as completed, and every person performing labor or furnishing supplies towards the completion of said improvement or work shall have a ~~lien~~ upon said fund so reserved; Provided, such notice of the lien of such claimant shall be given

in the manner and within the time provided by the laws of the State of Washington. No improvement shall be deemed completed until the Engineer shall have filed with the Town Clerk a statement declaring the same to have been completed.

During the time allowed for the completion of the contract the Engineer shall, on the first day of each month, issue an estimate of the amount of work completed by the contractor during the preceding month; Provided, that after the expiration of the time allowed for such completion no estimate other than the final estimate shall be issued. The final estimate shall include a statement of the amount of money due the contractor, a statement of the amount of money expended for abstracts, advertising, accounting and collection, and engineering expense incurred prior to the expiration of the time allowed for the completion of the contract. Engineering expense incurred after the time allowed for the completion of the contract shall be borne by the contractor as penalty for failure to complete the work within the specified time.

After the issuance of the estimate by the Engineer, the Town Clerk shall, on or about the 25th day of the month, deliver to the contractor money or warrants in an amount equal to such estimate less the percentage to be retained therefrom as herein provided. After the expiration of thirty (30) days following the final acceptance of said improvement or work and the expiration of the time for the filing of lien claims as provided by law, said reserve, or all amounts thereof in excess of a sufficient sum to meet and discharge the claims of material, men and laborers who have filed their claim as provided by law, together with a sum sufficient to defray the cost of such action, and to pay attorneys'

The first instalment of principal or interest of any assessment payable under the mode of "Payment by Bonds" shall become due and payable during the thirty day period succeeding a date one (1) year after the date of first publication of such notice, and annually thereafter each succeeding instalment of principal or interest shall be due and payable in like manner. Any such instalment not paid prior to the expiration of the <sup>day period</sup> ~~thirty~~ during which such instalment is due and payable shall thereupon become delinquent. All delinquent instalments shall, until paid, be subject to a charge for interest at the bond rate, and to an additional charge of five (5%) per cent. penalty levied upon both principal and interest due on such instalment or instalments.

#### SECTION VIII.

##### NOTICE BY MAIL

In all cases of assessments or installments thereof becoming due and payable, the Town Treasurer shall mail a notice thereof to the owner of the property assessed when the postoffice address of the owner is known, but failure to mail the same shall not affect the validity of the assessment lien.

#### SECTION IX.

##### SPECIAL FUND

The ordinance confirming any assessment roll shall also create a special fund to be called "Local Improvement Fund, District No. \_\_\_\_\_," into which shall be placed all sums paid on account of such assessment, including all interest and penalty thereon, and in event of sale of bonds by the Town, all proceeds of sale and all premiums and accrued interest on bonds issued for such improvement.

#### SECTION X.

##### ISSUANCE OF BONDS: COUPONS

After the expiration of thirty (30) days after the date

*Out of order*

fees, shall be paid to said contractor.

Such warrants shall be drawn against the local improvement district fund and shall bear interest at such rate, not to exceed eight (8%) per cent, as the Town Council shall by ordinance provide.

All warrants issued shall be redeemed in cash in order of issuance so far as payment into the local improvement district fund shall permit. Warrants not so redeemed in cash shall be redeemed in the order of their issuance in local improvement district bonds, if the mode of payment is "Payment by Bonds"; or, if the mode of payment be "Immediate Payment", by the issuance of local improvement district fund warrants with interest from date of issuance until redeemed at the same rate that the aforesaid warrants shall bear.

#### SECTION XVII.

#### CALL FOR BIDS

The Town Council may provide that all the work to be done in any local improvement district shall be let in one (1) contract or, at its option, it may provide that the work be subdivided and separate contracts be let for each subdivision thereof. All local improvements to be made by contract shall be let to the lowest bidder therefor. Before awarding any such contract the Town Council shall cause to be published in the official weekly newspaper of the Town a notice, in at least two (2) consecutive weekly issues, before letting such contract, inviting sealed proposals for such work, and the plans and specifications whereof must, at the time of publication of such notice, be on file in the office of the Town Clerk, subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same, sealed and filed with the

Town Clerk on or before the day and hour named therein. All bids shall be accompanied by a certified check, payable to the order of the Town of Kirkland, or a surety bond for a sum not less than five (5%) per cent. of the amount of the bid, and no bid shall be considered unless accompanied by such check or bond. If, in the discretion of the Town Council, the work should be done by the Town by day labor and under the management of the Engineer, it is hereby empowered to proceed with the work irrespective of all such bids, and, in such case, all bids shall be rejected.

#### SECTION XVIII.

##### AWARDING OF CONTRACTS

At the time and place named, such bids shall be publicly opened and read; no bid shall be rejected for informality but shall be received if it can be understood what is meant thereby. The Town Council shall proceed to determine the lowest bidder and may let such contract to such bidder, or if, in its opinion, all bids are too high, it may reject all of them and re-advertise, or may proceed to do the work under its own management by "day work," and, in such case, all checks shall be returned to the bidders by the Town Clerk. However, if the contract be let, all checks shall be returned to the bidders except that of the successful one, which shall be retained until the contract shall have been entered into for the making of such improvement between the bidder and the Town, in accordance with such bid, and the duly approved and accepted bond for said contract and satisfactory completion of such improvement be filed in the office of the Town Clerk. If the said bidder fail to enter into such contract in accordance with his bid within ten (10) days from the date upon which he is notified that he is the successful

bidder, the said check and the amount thereof shall be forfeited to the Town and the Town Clerk shall stamp across the face of the certified check, "Forfeited to the Town of Kirkland. \_\_\_\_\_

Town Clerk," and said check shall then be delivered to the Town Treasurer, who shall draw said amount and pay the same into the Town Treasury to the credit of the "Local Improvement Fund," and the Council shall re-advertise for proposals for such work. No one shall have the power to remit such forfeiture.

#### SECTION XIX

##### ASSESSMENTS FOR UNIT WATERMAINS

The cost of a unit watermain is the reasonable cost of a local watermain and its appurtenances suited to the requirements of the territory served as defined in the mode prescribed in Sec. 9365, Remington's Compiled Statutes, and such cost may be assessed against the property specially benefited thereby. The remaining portion of the cost and expense of any watermain, except where the Town Council shall provide for the creation of a trunk watermain district, shall be paid from such fund as the Town Council shall by ordinance direct.

#### SECTION XX.

##### CITY'S CONTRIBUTION TO BE SPECIFIED IN ORDINANCE

Every ordinance ordering any improvement herein provided for shall declare what, if any, portion or proportionate amount of such cost and expense thereof shall be borne by the Town out of its general fund or other fund, and shall direct that the remainder of such cost and expense be assessed against the property within the district created therefor in the manner provided by law.

#### SECTION XXI.

##### ITEMS OF COST

All estimates of the cost and expense of local

improvements, as required by law, shall include the estimated cost and expense of the engineering and surveying necessary for said improvement, the cost of ascertaining the ownership of the lots and parcels of land included in the assessment district, the cost of advertising and publishing all notices required to be published, and also a charge against each description of property in the following sum, to-wit: In case of "Immediate Payment" One Dollar (\$1.00) per description; in case of assessments payable in five (5) annual instalments, or less, Two Dollars (\$2.00) per description; in case of assessments payable in annual instalments between five (5) and ten (10) in number, Two and 50/100 Dollars (\$2.50) per description, (said sum includes the charge for accounting, clerical labor, books and blanks used in connection with the collection of said assessment); Provided, however, that whenever any assessment payable in instalments is paid in full within the thirty-day period fixed by law for the payment of assessment without interest, the Town Treasurer shall allow a rebate of that portion of the forementioned charge per description in excess of the sum of One Dollar (\$1.00). After the expiration of such thirty (30) day period the Town Treasurer shall report to the Town Clerk the total amount so rebated, and in all instances wherein the contractor doing the work in any local improvement district deposits cash under the terms of his contract with the Town Treasurer to cover the items of cost shown by the Engineer's final estimate, and specified in this section, the Town Treasurer shall transfer the amount of such rebate from the fund in which it has been deposited to the appropriate local improvement fund.

SECTION XXII.

SEGREGATION OF ASSESSMENTS

That the Town Treasurer be, and he is hereby, authorized to collect and receive from any owner or owners of any subdivision or subdivisions of any lot, tract or parcel of land upon which a local improvement assessment has been made, or may hereafter, be made, such portion of the assessment of assessments levied or to be levied against such lot, tract or parcel of land in the payment of said local improvement as the Engineer shall certify to be chargeable to such subdivision or subdivisions, in accordance with the requirements and provisions of law and ordinances of the Town of Kirkland in force at the time the original charge or assessment was made, together with a similar proportion of any penalties, interest or costs which shall have accrued; and upon making such collection upon any such subdivision the Town Treasurer shall, and he is hereby authorized, to note such collections upon the assessment records and give receipt for such certified proportion of said assessment as and for the assessment levied upon and due from said subdivision; Provided, that this ordinance shall not authorize the segregation of any assessment which has been delinquent for a period of two years or more; or in any case where it appears that such property as segregated is not sufficient security for the payment of the assessment. In such instance the Town Treasurer shall determine such question of fact.

Whenever, on account of the filing of a plat or replat or on account of a sale or contract to sell or other proper evidence of the change of ownership of a divided portion of any lot, tract or parcel of land assessed for local improvements, it



shall appear to be to the best interest of the Town of Kirkland to segregate such assessment, the Engineer is authorized to make the proper certification as provided for in this ordinance, upon the written application of the owner, approved by the Town Treasurer, and upon the payment of the fee hereinafter provided.

A fee of One and 50/100 (\$1.50) Dollars per description shall be charged for each description added to the assessment roll by such certificate of the Engineer, such fee to be paid to the Town Treasurer and shall be deposited in the General Fund.

SECTION XXIII.

REPEALING CLAUSE

That all ordinances, and parts of ordinances, in conflict herewith, are hereby repealed.

SECTION XXIV.

EFFECTIVE DATE

This ordinance shall be in effect from and after the date of its passage, signature, attestation and publication in the manner required by law.

Passed by the Council of the Town of Kirkland and signed by me in authentication of its passage this 6<sup>th</sup> day of February, 1928.

E. E. McKibben

Mayor

Attest:

Ralph E. Sample

Clerk