

ORDINANCE NO. 2789

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STREET IMPROVEMENTS.

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. Pursuant to Chapter 126, Laws of 1983, the City, with approval of the City Council, may contract with the owners of real property for construction or improvement of street projects which:

(i) The owners elect to install as a result of policies or regulations adopted by City ordinance, that require the projects as a prerequisite to further property development, or

(ii) Are required as reasonable mitigation measures as the result of SEPA review of a proposed property development.

Section 2. The contract may provide for the partial reimbursement to the owner or the owner's assigns for a period not to exceed 15 years of a portion of the costs of the project by other property owners who

(1) Are determined to be within the assessment reimbursement area pursuant to Section 4 of this ordinance;

(2) Are determined to have a reimbursement share based upon a benefit to the property pursuant to Section 3 of this act;

(3) Did not contribute to the original cost of the street project; and

(4) Subsequently developed or redeveloped to a higher use, their property within the 15-year period and at the time of development or redevelopment were not required to install similar street projects because they were already provided for by the contract.

Street projects subject to reimbursement may include design, grading, paving, installation of curbs, gutters, storm drainage, sidewalks, street lighting, traffic controls and other similar improvements as required by the street standards of the City.

Section 3. Any reimbursement so provided for by contract shall be a prorata share of construction and reimbursement of contract administration costs of the street project. The City shall determine the reimbursement share by using any method of cost apportionment which is based on the benefit to the property from such project.

Section 4. The procedures for assessment reimbursement contracts shall be governed by the following:

(1) An assessment reimbursement area shall be formulated by the City based upon a determination by the City of which parcels of real property adjacent to the improvements, would require similar street improvements upon development.

(2) The preliminary determination of area boundaries and assessments, along with a description of the property owner's rights and options shall be forwarded by registered mail to the property owners of record, within the proposed assessment area. If any property owner requests a hearing in writing within 20 days of the mailing of the preliminary determination, a hearing shall be held before the City Council, notice of which shall be given to all affected property owners. The ruling of the City Council following the hearing shall be determinative and final.

(3) The contract must be recorded in the office of the King County Department of Records and Elections within 30 days of the final execution of the agreement.

(4) If the contract is so recorded, it shall be binding on all owners of record, including subsequent owners of record within the assessment area who are not a party to the contract.

Section 5. The contract referred to in Section 1 of this ordinance shall specify whether

(i) The property owner's, parties to the contract, shall pay to the City the actual costs to the City of the construction, including public works contract administrative costs, in which case the City shall within the time specified in the contract, call for bids for construction as a public work or public improvement; or

(ii) The property owner's parties to the contract, will contract for the construction or improvement projects to be completed at their expense, in which case all design work, plans and specifications shall first be approved by the City, and the completed project shall be inspected, approved and accepted by the City prior to the institution of the assessment procedures and the recording of the contract as provided in Section 4. All costs and expenses incurred by the City pursuant to this subsection shall be reimbursed to the City by the contracting property owners at or prior to acceptance of the construction or improvement project. The City shall not be responsible for, or liable to any person by reason of, defect in design construction or maintenance prior to acceptance.

Section 6. In the event the contract includes, pursuant to Section 2, provision for reimbursement, the City shall not be responsible to any person, including those persons entitled to receive reimbursement payments for payment of reimbursement, except as to moneys actually received by the City in payment of Section 4 assessments, and then only upon actual receipt of such payments by the City. The City shall retain from such payments as received fifteen (15%) percent thereof for administration costs and shall reimburse the balance.

Section 7. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and posting or publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 16th day of January, 1984.

Signed in authentication thereof this 16th day of January, 1984.

*Loria Cooper*  
 MAYOR

ATTEST:

*Tom Adelson*

Director of Administration & Finance  
(ex officio City Clerk)

APPROVED AS TO FORM:

*Ray 27th*

City Attorney

CERTIFICATION OF POSTING

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 17th day of January, 1984 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.

*Janice Perry*  
Clerk