

ORDINANCE NO. 591

AN ORDINANCE AMENDING SECTION 2 AND SECTION 5 OF ORDINANCE NO. 178 ENTITLED "AN ORDINANCE PROVIDING FOR THE CREATION OF LOCAL IMPROVEMENT DISTRICTS, THE CONSTRUCTION THEREIN OF CERTAIN LOCAL IMPROVEMENTS AND PROVIDING A METHOD OF PAYMENT THEREFOR".

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

SECTION 1. That Section 2 of Ordinance No. 178 be amended so as to read as follows:

Section 2. ORGANIZATION OF DISTRICTS. The Council may, in districts to be prescribed, order the paving, grading, curbing, guttering, and otherwise improving the whole or any part or parts of any street or streets, alley or alleys, or streets and alleys, in the city, or any combination of said improvements, including the reconstruction, replacement, renewal or extension of the same and also including necessary grades, cross-walks, culverts, drains, readjusting man-holes and catch basins, connections with existing water mains and such other incidentals, including incidental storm sewers, in the case of paving; said improvements may also consist of any local improvement (and renewals or extensions thereof) which benefits the land abutting on such improvements, such as sidewalks, watermains or the necessary construction and appliances for the installation of artificial lighting. Said improvements may also consist of the construction of sewers, sewage disposal works and renewals or extensions thereof, and such other public works as may be considered necessary and authorized by the City Council; and the Council may thereafter, under the conditions herein prescribed, do such further grading as may be necessary in paving or otherwise improving the same area; provided:

First. PREPARE DETAILS FOR SPECIFICATIONS. Before ordering the improvements mentioned in this section, or any of them, the Council shall adopt full details and specifications for the same, determine the number of installments and time in which the cost shall be payable, the rate of interest on unpaid installments and the district of lands to be assessed for the same, as in this ordinance provided; and shall cause the engineer to make an estimate of the total cost of such improvements, exclusive of the percentum for cost of collection and other incidentals, and of interest to the time the first installment comes due, and a map of the district to be assessed, from which the approximate share of said total cost that will be assessed upon each piece of real estate in the district may be readily ascertained; and no improvement shall be made at a cost exceeding the total estimate of the engineer.

Second. NOTICE TO OWNERS. The council shall, by advertisement for one issue in a weekly or daily newspaper of general circulation, published in the city, give notice to the owners of the real

estate in the district and to all persons generally interested, and without naming such owners or person, of the kinds of improvements proposed (without mentioning minor details or incidentals), the number of installments and time in which the cost of the improvements will be payable, the rate of interest on unpaid installments, the extent of the district to be assessed (by boundaries or other brief description), the probable cost as shown by the total estimate of the engineer, the maximum share of said total estimate per front foot were the assessment is made per front foot, or per square foot or ordinary lot of twenty-five by one hundred and twenty-five feet where the assessment is made according to area that will be assessed upon any lot or lands in the district (and in case the assessment shall be made otherwise than per front foot or square foot, the said maximum share to be assessed upon any lot or lands in the district or to any share to be assessed upon any lot or lands in the district or to any persons shall be stated according to the method of assessment adopted in the district) and the time, not less than thirty days after such publication, when the Council will consider the ordering of the proposed improvements and hear all complaints and objections that may be made in writing concerning the proposed improvements, by the owner of any real estate to be assessed, or any persons interested, and that said map and estimates and all proceedings of the Council in the premises are on file and can be seen and examined at the office of the City Clerk during business hours, at any time within said period of thirty days, by any person interested.

Third. WORK, HOW PERFORMED - CONTRACTS. Except as provided herein, all local improvements made under the provisions of this ordinance shall be constructed by independent contracts, and all contracts shall be let by the President of the City Council with the approval of the City Council. All such contracts shall be let to the lowest reliable and responsible bidder, after public advertisement; published in one issue of a weekly or daily newspaper of general circulation, published in the city, such publication to be made not less than ten days previous to the letting of said contract, except that if it be determined by the City Council that the bids are too high, or that the proposed improvements can be efficiently made by the city, the city may, under the provisions of this ordinance, provide for the doing of the work by hiring labor by the day or otherwise, and to arrange for purchase of necessary material, under the supervision of the City Manager and the Council of the City of Grand Junction.

Fourth. OWNERS MAY PETITION FOR IMPROVEMENTS - REQUIREMENTS OF PETITION. If the owners of one-third of the frontage of the real estate to be assessed shall petition for any street improvement provided in Section 2 of this ordinance, and if the improvement be paving and the petition names two or more types of paving, whether asphalt, macadam, stone, brick or any other kind of substantial paving, then the improvements shall be ordered; provided, the Council shall deem such proposed improvement good and sufficient for the particular locality; provided, however, that if the

improvement be a paving project, the Council may receive bids on any other type of paving than that mentioned in the petition, which the Council deems suitable for the particular locality. The petition must be subscribed, and acknowledged in the manner provided by law for acknowledgments of deeds of conveyance of real estate, by the owners or their agents duly thereunto authorized by power of attorney, acknowledged in like manner, of one-third of the frontage of the real estate to be assessed for the same. No petitioner, his heirs or assigns shall be permitted to withdraw his name from the petition after the same has been filed with the Council unless the Council fails to order such improvements, upon such petition within nine months from the time the petition is so filed. All requests for withdrawal must be subscribed and acknowledged as aforesaid. On all paving projects, the Council shall have discretionary power to elect which type of paving shall be adopted after the receipt of bids thereon; provided, that if the owners of a majority of the frontage of the real estate to be assessed shall petition for paving, and name one particular kind of paving which they desire to be used, then the kind of paving so designated shall be used; provided the Council shall deem such proposed improvement good and sufficient for the particular locality.

Every petition for paving projects shall state the maximum cost per square foot for surface and base, per lineal foot for curb and gutter, and per cubic yard for grading, exclusive of interest and cost of collection for the entire improvement when completed, and the amount so named shall not be exceeded; all matters contained in the petition except the maximum cost, as aforesaid, may be disregarded by the Council, and any one or more of the other improvements mentioned in this section, may be added by the Council if the maximum cost is not exceeded; provided, that when the petition by the owners of a majority of the frontage of the real estate to be assessed designates one type or kind of paving, all matters contained therein, except the naming of the kind of pavement, and the maximum cost, as aforesaid, may be disregarded by the Council, and any one or more of the other improvements mentioned in this section may be added by the Council if the maximum cost is not exceeded.

Where the paving petitioned for in any number of petitions is substantially the same, the improvement may be included in one district, but in such case each petition shall be considered as a unit for the purpose of petition and remonstrance and may be considered as a unit for any other purpose, as the Council may direct. But no petition shall be required to authorize the Council to initiate any paving mentioned in this section.

Fifth. REMONSTRANCE BY OWNERS AGAINST IMPROVEMENTS. If, within the time specified in said notice, a remonstrance against the making of all the improvements proposed shall be filed with the Council, subscribed and acknowledged as above provided for petitions, by the owners of a greater percentum of the frontage of the real estate to be assessed for said improvement or improvements, than

had signed the petition for such improvement or improvements, as described in the third proviso to Section 2 aforesaid, the improvement or improvements shall not be made. Provided, that the construction of sewers shall not be subject to remonstrance.

No owner, his heirs or assigns, who shall have signed and not withdrawn from a petition for any such improvements, shall be permitted to sign a remonstrance against the proposed improvements.

Sixth. SPECIFICATIONS FOR IMPROVEMENTS. In all specifications for material to be used in public improvements of every kind, the council shall establish a standard of purity, strength and quality, to be demonstrated by physical and chemical tests within limits of reasonable variations, such as rattler, crushing, absorption, chemical and other tests.

Seventh. PROCEEDINGS OF THE COUNCIL MAY BE MODIFIED. All proceedings by the Council may be modified, confirmed or rescinded by the Council at any time prior to the adoption of the resolution authorizing the improvements; provided, that no substantial change in the district, map details, specifications or estimate shall be made by the Council after the first publication of the notice to property owners.

Eighth. DISTRICT MAY UTILIZE EXISTING IMPROVEMENTS. If at the time of the adoption of the resolution authorizing the improvements for any district, any piece of real estate in the district has the whole or any part of the proposed improvements, conforming or approximately conforming to the general plan, the Council may adopt the same, in whole or in part, or make the necessary changes to make the same conform to the general plan; and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting such existing improvements.

Ninth. FINDINGS OF COUNCIL CONCLUSIVE. The findings of the Council by resolution, that any improvements provided for in this ordinance were duly ordered after notice duly given, or that petition or remonstrance was or was not filed, or was or was not duly subscribed and acknowledged by the required number of owners, as in this ordinance provided, shall be conclusive in every court or other tribunal.

SECTION 2. That Section 5 of Ordinance No. 178 be amended to read as follows:

Section 5. IMPROVEMENTS IN STREET AND ALLEY INTERSECTIONS, HOW ASSESSED. In case of the improvement of any street or alley, the cost of the improvements at each street intersection street and alley intersections, except the part of be borne by street or other railway companies, and except in case of the installation of artificial street lighting, shall be paid by the City of Grand Junction from general revenues or sale of city bonds.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. The City Council is of the opinion, and finds, determines and declares, that this ordinance is necessary for the preservation of the public peace, health, and safety, and that a special emergency exists therefor; and this ordinance shall therefore be effective and in force from and after its passage.

Passed and adopted this 4<sup>th</sup> day of May A. D. 1938.

/s/ L.P. Groves  
President of the City Council

ATTEST:

/s/ Helen C. Tomlinson  
City Clerk

I HEREBY CERTIFY That the foregoing emergency ordinance entitled, "AN ORDINANCE AMENDING SECTION 2 AND SECTION 5 OF ORDINANCE NO 178 ENTITLED "AN ORDINANCE PROVIDING FOR THE CREATION OF LOCAL IMPROVEMENT DISTRICTS, THE CONSTRUCTION THEREIN OF CERTAIN LOCAL IMPROVEMENTS AND PROVIDING A METHOD OF PAYMENT THEREFOR"., was introduced read, passed, numbered 591, and ordered published by the unanimous vote of the members of the City Council of the City of Grand Junction, at a regular meeting of said Council held on the 4th day of May, 1938.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City, this 4th day of May, 1938.

/s/ Helen C. Tomlinson  
City Clerk

Published May 5, 1938