

an Ordinance providing for the widening of East Burnside Street and Gilham Avenue from the east line of East 63rd Street easterly and southeasterly to an intersection with East 69th Street and Thorburn Avenue, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. The Council finds and does hereby declare that the public interest requires the widening of East Burnside Street and Gilham Avenue, said East Burnside Street and Gilham Avenue being found to constitute one continuous street from the east line of East 63rd Street to an intersection with East 69th Street and Thorburn Avenue, by appropriating therefor the following property:

Beginning at a point in the west line of lot 12, block 12, Orchard Homes, which point is 24.78 feet north of the southwest corner thereof, measured along said west line, and running thence southeasterly tangent to said west line of lot 12, on a curve to the left having a radius of 20 feet and a central angle of $106^{\circ}04'$, 25.31 feet to a point; thence northeasterly tangent to the last mentioned course, 297.96 feet to a point in the west line of East 65th Street; thence easterly on a line parallel to and 5 feet northerly of the north line of East Burnside Street, as laid out in Ridgmont, 824.39 feet to a point; thence northeasterly, tangent to the last mentioned course, on a curve to the left, with a radius of 10 feet and a central angle of $122^{\circ}58'$, 21.45 feet to a point in the westerly line of Gilham Avenue; thence in a straight line to a point on the east line of Gilham Avenue, which point is 8.29 feet southerly of the northwesterly corner of lot 14, block 2, Ridgmont, measured along the southwesterly line of said lot 14; thence southeasterly, tracing the easterly line of Gilham Avenue, on a curve to the left having a radius of 312.6 feet and a central angle of $5^{\circ}13'33''$, 17.60 feet to a point; thence southeasterly in a straight line, following a course parallel to and 5 feet northeasterly of that portion of the west line of block 2, Ridgmont, which is included between the northwesterly line of lot 12, said block 2, and the southeasterly line of lot 7, said block 2, 374.72 feet to a point; thence southeasterly, tangent to the last mentioned course on a curve to the left having a radius of 290 feet and a central angle of $7^{\circ}25'$, 115.21 feet to a point; thence southeasterly, tangent to the last mentioned course, 72.11 feet to a point; thence tangent to the last mentioned course, on a curve to the left with a radius of 10 feet and a central angle of $123^{\circ}55'$, 21.63 feet to a point in the west line of East 69th Street; thence, tracing a southerly extension of said west line of East 69th Street, to an intersection with the north line of Thorburn Avenue, extended easterly, as laid out in Ridgmont; thence westerly, tracing said easterly extension of said north line of Thorburn Avenue and said north line of Thorburn Avenue, to a point 83.24 feet easterly of the southwest corner of lot 20, block 6, Ridgmont, measured along said north line of Thorburn Avenue; thence northerly, tangent to the last mentioned

course, tracing a curve to the left having a radius of 10 feet and a central angle of $152^{\circ}32'$, 26.62 feet to a point; thence northwesterly, tangent to the last mentioned course, 21.93 feet to a point; thence northwesterly, tangent to the last mentioned course, on a curve to the right with a radius of 950 feet and a central angle of $7^{\circ}25'$, 122.96 feet to a point; thence northwesterly, tracing a line parallel to and 5 feet southwesterly of the southwesterly line of Gilham Avenue, to an intersection with the southeasterly line of lot 13, block 6, Ridgmont; thence westerly, tangent to the last mentioned course, tracing a curve to the left with a radius of 170 feet and a central angle of $42^{\circ}02'$, 124.72 feet to a point; thence westerly, tracing a line parallel to and 5 feet southerly of the south line of East Burnside Street, as laid out in Ridgmont, 822.75 feet to a point 13.0 feet west of the west line of lot 4, block 2, Palmyra; thence southwesterly in a straight line 64.02 feet to a point in the east line of East 64th Street which point is 77.67 feet northerly from the southwest corner of lot 1, block 2, Palmyra, measured along said east line; thence southerly, tracing said east line of East 64th Street, 25.92 feet to a point; thence westerly at right angles to the east line of East 64th Street, 50 feet to the west line of East 64th Street; thence northwesterly, tangent to said west line of East 64th Street, tracing a curve to the left with a radius of 10 feet and a central angle of $104^{\circ}33'$, 13.25 feet to a point; thence southwesterly in a straight line to the northwest corner of block 11, Orchard Homes; thence westerly, tracing a westerly extension of the north line of block 11, Orchard Homes, to an intersection with a southerly extension of the east line of East 63rd Street; thence northerly, tracing a southerly extension of said east line of East 63rd Street and said east line of East 63rd Street, 84.78 feet to the place of beginning; except so much of said property as is now embraced within East Burnside Street and Gilham Avenue as heretofore established.

Section 2. The City Attorney is hereby authorized and directed to institute an action or actions for condemnation of said property for said purpose, provided, however, that before said action or actions be instituted, negotiations shall be conducted as required by law with the owners of said property for the acquisition thereof, without suit or action, and the City Engineer is hereby authorized and directed immediately to conduct such negotiations and report to the Council, such report to show the prices at which the property required for said widening of East Burnside Street and Gilham Avenue may be obtained without suit or action, such prices to be without prejudice, either to the persons making the same or to the City in any suit or action which may thereafter be instituted, and such report to further show the Engineer's recommendations as to a fair and reasonable amount to be offered by the City for the respective parcels of land required.

Section 3. The Council shall thereupon provide a fund and draw warrants thereon in favor of such persons for the sum or sums found by the City Engineer, or such greater sum as the Council may deem proper. Such fund shall be provided by levy of assessments for benefits provided that the Council may at its option make an appropriation from the General Fund by way of an advancement for the purpose of providing such fund, or any portion thereof, such advancement to be refunded upon the levy and collection of assessments for benefits. Such assessments for benefits shall be made as follows, to-wit: The Council shall by resolution require of the City Engineer a plan for an appropriate widening of said street with a statement of the property to be acquired therefor and an estimate of the probable cost thereof, and said City Engineer shall file such plan, statement and estimate in the office of the Auditor of the City of Portland. If the Council shall find the same satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and to be assessed for said street widening and shall by resolution declare its purpose of making said widening, describing the same and defining the boundaries of the assessment district to be benefited and assessed therefor, all of which may be done in one resolution. Upon the passage of said resolution by the Council, the Auditor of the City of Portland shall give notice of such proposed widening by publishing such notice and resolution for ten consecutive publications in the City Official Newspaper, and stating the time when objections or remonstrances may be filed against the same, and the City Engineer, shall, within five (5) days from the first publication of such notice, cause to be conspicuously posted at each end of the line of said contemplated street widening a notice headed "NOTICE OF STREET EXTENSION" in letters of not less than one inch in length, and such notice shall contain, in legible characters, a copy of said

resolution and the date of its adoption, and shall state the time within which objections or remonstrances may be made and filed against such proposed widening, and the City Engineer shall file with the Auditor an affidavit of the posting of said notice, stating therein the date when and the places where the same were posted, and within thirty (30) days from the date of the first publication of said notice herein required to be published, the owners of three-fifths or more in area of the property within such assessment district may make and file with the Auditor a written objection to or remonstrance against such proposed widening, and said objection or remonstrance shall be a bar to any further proceedings in the making of such widening for a period of six (6) months, unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor; provided that if any such objection, remonstrance or petition shall be signed by the agent or attorney of any property owner, there shall be filed with the Auditor within the time provided for such remonstrance or petition the written authority for such agent or attorney to sign any such remonstrance or petition, otherwise the signature shall be disregarded; and if no such objection or remonstrance be made or filed with the Auditor within the time above designated, or if any remonstrance filed is not legally signed by the owners of three-fifths or more of the property affected, the Council shall be deemed to have acquired jurisdiction to order the said widening of said East Burnside Street and Gilham Avenue to be made, and the Council may thereafter and within three months from the date of the final publication of said resolution, by ordinance, provide for making said widening, which ordinance shall conform in all particulars to said plans and statement of said Engineer. The Auditor shall, as soon as convenient after the taking effect of such ordinance, and after the Engineer shall have filed his report showing the prices at which the property for said widening of East Burnside Street and Gilham Avenue may be obtained, and the amount

which the Engineer recommends to be offered for such property, apportion upon the lots, parts of lots and parcels of land affected by such widening, and within the assessment district, the total amount of the sums recommended by the Engineer to be offered by the City for the property required for such widening, to which shall be added five percent for engineering, superintendence and advertising. Provided, however, that if the property required for said widening should be obtained or the actual amount of cost thereof ascertained, before the making of such apportionment, said Auditor shall apportion the actual cost thereof, including five percent for engineering, superintendence and advertising, upon the lots, parts of lots and parcels of land within such assessment district. When the Auditor has ascertained what he may deem a just apportionment of such amount, in accordance with the special and peculiar benefits derived by each lot, part thereof or parcel of land, the same shall be a proposed assessment and the Auditor shall give notice of the same by publication for ten consecutive insertions in the city official newspaper, therein specifying the street widening for which said proposed assessment is apportioned, the total amount of such proposed assessment, the boundaries of the district to be assessed therefor, that said proposed assessment has been apportioned and is on file in the office of the Auditor and subject to examination, and also that any objections to such apportionment made in writing to the Council and filed with the Auditor within twenty days from the first publication of such notice will be heard and determined by the Council before the passage of any ordinance making an assessment. It shall also be the duty of the Auditor forthwith to send by mail post-paid a notice of the share so apportioned to each lot, part thereof or parcel of land, stating the time in which objections to such apportionment may be made in writing to the Council and filed with the Auditor, to the owner (if known) of each lot or parcel of land,

or to the agent of such owner, directed to the post office address of such owner or agent, when such post office address is known to him, and if such post office address be unknown to him, then such notice shall be directed to such owner or agent at Portland, Oregon. After the time specified in said notice has elapsed, the Council shall consider such proposed assessment with all objections made thereto, and it shall have the power at its discretion and without any further notice, to consider, ascertain and determine the amount of the special and peculiar benefits accruing to each lot, or part thereof or parcel of land so assessed by reason of such street widening, and if the amount apportioned by the Auditor to any lot or part thereof or parcel of land shall not be in just proportion to such benefits, the assessment against such lot or part thereof or parcel of land shall be so reduced or increased by the Council that it shall be in just proportion to such benefits; but, in no case shall any such assessment exceed any such benefits. The assessment roll shall then be numbered and the Council shall declare said assessment by ordinance, which shall designate said street widening for which the assessment is levied, the number of the assessment roll and the whole amount of such assessment, but such assessment need not be set out at large in said ordinance. Each lot or part thereof or parcel of land shall be deemed to be benefited by such street widening to the full amount of the assessment levied thereon, and no such assessment shall be held invalid by reason of the failure to enter the name of the owner of any lot or part of a lot or parcel of land so assessed, or by a mistake in the name of the owner or the entry of a name other than the name of the owner in said assessment, or in any acts or proceedings connected therewith, and no delays, mistakes, errors or irregularities, in any act or proceeding in such widening shall prejudice or invalidate any such assessment, but the same may be remedied by subsequent or amended acts or proceedings. When said assessment has been declared by ordinance, it shall be the duty of the Auditor to enter a statement of said assessment in the docket of City Liens, furnish 30909

a copy of said assessment to the City Treasurer and give notice of said assessment by publishing for five consecutive insertions in the city official newspaper, a notice which shall specify said street widening for which said assessment is made, the amount of such assessment, the number and title of the ordinance declaring the same, that the same is due and payable, the time when said assessment shall bear interest, viz: from the date of entry in said lien docket and the time when the same shall be delinquent, viz., thirty (30) days from the date of entry in such lien docket, and to send by mail to each person whose property is assessed, or to his agent, a notice of said assessment, when the post office address of such person or his agent is known to the Auditor, and if such post office address be unknown to the Auditor, such notice shall be directed to such person or agent at Portland, Oregon. Such entry in the Docket of City Liens shall have the same force and effect and shall be collected in the same manner as in cases where street assessments are entered in said docket.

Section 4. The amounts collected and received on such assessment shall be applied to the payment of the cost of engineering, advertising and the cost of acquiring the necessary property for said street widening and to reimburse the General Fund for any amount which may have been advanced therefrom, and upon a final determination of the actual amount of such extension, if it should be determined that the amount of such assessment exceeds the cost of said property, including the expense of engineering and advertising, a refund shall be made of such excess, in proportion to the amount which the property owners have contributed thereto, and, in the event that such final cost, including the cost of engineering and advertising shall be more than the amount so assessed, a deficiency assessment shall be made for such deficit. Upon ascertaining any such surplus, or any such deficit, the Auditor

shall prepare a preliminary statement of the amount of surplus to be refunded or the amount of deficit to be assessed as the case may be, and give notice thereof as herein specified for the preliminary assessment, and thereupon objections may be made, and the same shall be heard and determined by the Council as hereinbefore provided with respect to the preliminary assessment, and the amount of refund to be made to each lot owner, or the amount of the deficit to be assessed against such lot or parcel of land shall be fixed by the Council, and thereupon in case of a refund, the auditor shall refund the same to the respective parties entitled thereto, and in case of a deficit, the amount of deficit assessed against each lot and parcel of land shall be entered in the Docket of City Liens with the same force and effect as other assessments, and a similar notice shall be given thereof, and the same shall be collected in like manner; provided, that in case of a refund where the property as to which the refund is made has been bonded, the amount of the refund shall be credited upon the bonded assessment.

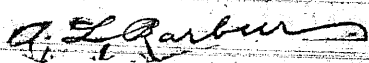
Section 5. Sections 361a to 361i inclusive, relating to bonding street extensions, and Sections 400 to 402 both inclusive, of the former charter of the City of Portland, said sections being now a part of the Local Improvement Code, shall be applicable to any assessment made for the widening of said East Burnside Street and Gilham Avenue.

Section 6. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: That the interests of the public demand the immediate widening of said portion of East Burnside Street and Gilham Avenue, therefore an emergency is hereby declared and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council: **SEP 22 1915**

H. R. ALBEE
Mayor of the City of Portland

ATTEST:


Auditor of the City of Portland

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