

# Ordinance No. 00418

[City Council meeting minutes of July 17 2006](#)

## CITY OF LAKEWOOD, WASHINGTON

### ORDINANCE NO. 418

AN ORDINANCE of the City of Lakewood, Washington, amending, approving and adopting the findings, conclusions and recommendations made by the appointed Hearing Officer, making and declaring certain Council Findings and Conclusions regarding the assessments and the assessment rolls of Local Improvement Districts Nos. 1101, 1102 and 1103 created for the purpose of installing curb, sidewalk, street lighting and related street improvements (the "Improvements"), as provided by Ordinance No. 340, confirming and assessing a part of the cost and expense of the three local improvement districts against the several lots, tracts, parcels of land and other property as shown on the respective assessment rolls, and amending a section of the Lakewood Municipal Code and of Ordinance No. 320.

PASSED JULY 17, 2006

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*\*The cover page, table of contents and section captions of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

CITY OF LAKEWOOD, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Lakewood, Washington, amending, approving and adopting the findings, conclusions and recommendations made by the appointed Hearing Officer, making and declaring certain Council Findings and Conclusions regarding the assessments and the assessment rolls of Local Improvement Districts Nos. 1101, 1102 and 1103 created for the purpose of installing curb, sidewalk, street lighting and related street improvements (the "Improvements"), as provided by Ordinance No. 340, confirming and assessing a part of the cost and expense of the three local improvement districts against the several lots, tracts, parcels of land and other property as shown on the respective assessment rolls, and amending a section of the Lakewood Municipal Code and of Ordinance No. 320

WHEREAS, the final assessment rolls proposing the special assessments to be levied against the property located in Local Improvement Districts Nos. 1101, 1102 and 1103 ("LIDs Nos. 1101, 1102 and 1103"), respectively, or (the "LIDs") in the City of Lakewood, Washington (the "City"), created by Ordinance No. 340 (Exhibit C-7), for the purpose of installing curb, sidewalk, street lighting and related street improvements (the "Improvements"), were filed with the City Clerk as provided by law, and are Exhibits C-01 - 10, C-02 - 10 and C-03 - 8; and

WHEREAS, the City Council by Resolution No. 2006-14 (Exhibit C-10) directed that the final assessment roll hearing should be conducted before Rodney Kerslake, acting as Hearing Officer, pursuant to Ordinance No. 414 (Exhibit C-9), establishing procedures, and that notice should be given as required by law, by both mailing and publication, of the time and place fixed for the hearings in such resolution; and

WHEREAS, notices of the time and place of hearing and for making written objections and protests to proposed assessments on the final assessment rolls was published at the times and in the manner provided by law fixing the time and place of commencement of the hearing thereon for June 14, 2006, at 10:00 a.m., local time, in the Hearings Room at City Hall, located at 6000 Main Street SW in Lakewood, Washington, and further notice thereof was mailed or caused to be mailed by the City

Clerk to each property owner shown on the roll; and

WHEREAS, at the time and place fixed and designated in the notices, the hearing was convened and commenced before the Hearing Officer, the City was represented by the City Attorney, Heidi Ann Wachter, no written protests or objections were received by the City Clerk from property owners in any of the LIDs prior to the conclusion of the hearing sessions that morning, and no person appeared at the hearings who wished to be heard, personally or through counsel, for the purpose of considering the assessment rolls and the special benefits to be received by each lot, parcel and tract of land shown upon such rolls, including the increase and enhancement of the fair market value of each such parcel of land in the LIDs by reason of the Improvements; and

WHEREAS, on June 19, 2006, the Hearing Officer delivered to the City a detailed written report for each LID consisting of Findings of Fact, Conclusions, and a Recommendation, to the City Council, (sometimes, collectively, the "Findings, Conclusions and Recommendations"), true, complete and correct copies of which are now on file with the City Clerk;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN, as follows:

Section 1. Presumptions. The City is entitled to the benefit of certain legal presumptions regarding the appropriateness of the assessment process and assessments in the LIDs.

As the City Attorney stated at the hearings, the Washington Supreme Court has said:

A series of cases spells out the presumptions when property owners challenge the amount they have been assessed under a special assessment scheme. The presumptions relevant to this case include: (1) the burden is upon the one challenging the assessment to prove its incorrectness as it is presumed the City has acted properly and legally; (2) the assessment is presumed to be a benefit; (3) the assessment is presumed to be no greater than the benefit; (4) it is presumed that an assessment is equal or ratable to an assessment upon other property similarly situated and that the assessment is fair; and (5) evidence of appraisal values and benefits is necessary to rebut these presumptions. Appellate review of such cases does not permit an independent evaluation of the merits.

City of Seattle v. Rogers Clothing, 114 Wash. 2d 213, 229, 787 P 2d 39, 48 (Wash. 1990) (emphasis added).

It is presumed that a local improvement benefits property unless the challenging party produces competent evidence to the contrary. The burden of proof shifts to the City only after the challenging party presents expert appraisal evidence showing that the property would not be benefited by the improvement.]

Id., 231, 48 (emphasis added).

Section 2. Amendment and Approval of Hearing Officer's Findings for LID No. 1101. The City Council is informed by City staff that certain Findings of Fact with respect to LID No. 1101 should be amended in the interest of clarity and accuracy. The City Council agrees and accordingly finds that the amendments set forth below should be, and they hereby are, made to Findings of Fact 6 and 9 in the LID No. 1101 Report.

6. The properties situated within LID 1101 have been assessed for the cost of the improvements in the amount of \$252.25 per linear foot of frontage improvement with the exception of the property owned by Clover Park Technical College, which has been additionally assessed for the cost of the traffic signal it requested, and the property owned by Joseph Mayer, which was additionally assessed for the cost of placing overhead telephone wires abutting his property underground. The City obtained two \$150,000 grants for payment of some of the costs associated with the improvements constructed under LID 1101. The \$300,000 in grant monies was proportionately subtracted from the total project cost and that reduced the amount used to calculate the final assessments to property owners assessment of those parcels located within the specified territorial limits of the grants.

9. The fair cash market value of the properties specially benefited by LID 1101 has been increased in an amount equal to or greater than the proposed assessment. ~~No protest has been entered in regard to formation of LID 1101.~~

After due consideration, and being fully informed and advised, the City Council approves and adopts the Findings, Conclusions and Recommendations of the Hearing Officer dated June 19, 2006, for each of the LIDs, as amended above in the case of LID No. 1101.

Section 3. Findings of Fact. The City Council specifically makes and declares the following FINDINGS:

3.1 Due, proper and timely notice by mailing, and by publication as appropriate, of the three Final Assessment Roll Hearings was given by the City to property owners in the LIDs. Exhibits C-01-11 and C-01-12, C-02-11 and C-02-12, and C-03-9 and C-03-10, including the State of Washington Board for Community and Technical Colleges in LID No. 1101, and the State of Washington Department of Social and Health Services in LID No. 1102, Exhibits C-01-13 and C-02-13, respectively.

3.2 No property owners appeared at the hearings or filed written protests or objections to their assessments in any of the LIDs.

3.3 The linear foot method of assessment referred to in the Findings, Conclusions and Recommendation for LID No. 1101, as amended by this ordinance, more fairly, accurately and correctly reflects the special benefits to each property or parcel within that LID, resulting from the Improvements constructed there than the application of the statutory zone-and-termini method or any other formula or methodology available.

3.4 The single parcel method of assessment referred to in the Findings, Conclusions and Recommendations for LIDs Nos. 1102 and 1103 accurately reflects the special benefits to the properties in those LIDs resulting from the Improvements there than does the statutory zone-and-termini method or any other formula or methodology available.

Section 4. Conclusions of Law. Based on the FINDINGS set forth in Section 3, the City Council states and declares the following CONCLUSIONS:

4.1 The presumptions set forth in Section 1 have not been rebutted. Standing alone, the presumptions should sustain all the assessments as a matter of law.

4.2 The assessment method used in each LID more fairly, accurately and correctly reflects the special benefits to each property or parcel affected than the application of the statutory zone-and-termini method or any other formula or methodology available.

4.3 The assessments and Final Assessment Rolls of LIDs Nos. 1101, 1102 and 1103, which have been created and established for the purpose of installing curb, sidewalk, street lighting and related street improvements constituting the Improvements, as provided by Ordinance No. 340, as the same now stand, should be approved and confirmed in all things and respects in the following total amounts:

LID No. 1101	-	\$1,743,680.53
LID No. 1102	-	\$1,246,959.72
LID No. 1103	-	\$ 100,000.00

Section 5. Confirmation of Assessments. As recommended by the Hearing Officer in the three reports, each of the lots, tracts, parcels of land and other property shown upon the three Final Assessment Rolls, are hereby determined, found and declared by the City Council, sitting and acting as a Board of Equalization, to be specially benefited by the Improvements in at least the amount charged against the same, and the assessment appearing against the same is in proportion to the several assessments appearing upon the rolls. There is hereby levied, confirmed and assessed against each lot, tract or parcel of land and other property appearing upon the three Final Assessment Rolls the amounts finally charged against the same thereon for the following totals in the respective LIDs, including specially requested Improvements resulting in added assessments for certain properties:

LID No. 1101	-	\$1,743,680.53
LID No. 1102	-	\$1,246,959.72
LID No. 1103	-	\$ 100,000.00

The total principal amount of the assessments in the three LIDs thus confirmed is \$3,090,640.25

Section 6. Filing of Rolls for Collection and Related Matters. The three Final Assessment Rolls as thus approved and confirmed shall be filed with the City Finance Director for collection and he is authorized to mail and publish notice as required by law stating that the rolls are in his hands for collection and that payment of any assessment thereon or any portion of such assessment can be made at any time within 30 days from the date of first publication of such notice without penalty, interest or cost. Thereafter the sum remaining unpaid on each assessment may be paid in 18 equal annual installments of principal together with interest. The estimated assessment interest rate is stated to be 5.75% per annum, with the exact interest rate to be fixed in the ordinance authorizing the issuance and sale of the local improvement bonds for the three LIDs, likely as a consolidated local improvement district.

Section 7. Amendment of Lakewood Municipal Code. In order to provide more effective penalties for delinquent payment of local improvement district assessment installments, and promote timely payment of such installments, Section 9.24.030 of the Lakewood Municipal Code, and that section of Ordinance No. 320 should be, and they hereby are amended to read as follows:  
**9.24.030 Delinquent Installments ? Penalties**

Whenever any installment upon any local improvement district assessment or utility local improvement district assessment shall become delinquent, each such delinquent installment remaining unpaid at the date of delinquency shall have added thereto a penalty equal to the rate of interest provided by ordinance for the bonds or installment note or notes issued to pay the costs of improvement in such local improvement district or utility local improvement district plus five (5) of twelve (12) percent levied on both principal and interest due upon that installment. When not otherwise provided by ordinance, such delinquent installments shall bear interest at the same rate as is provided by ordinance for the final assessment roll for such local improvement district or utility local improvement district or for the bonds or installment note or notes issued in payment or part payment of the cost of the improvement in such local improvement district or utility local improvement district.

Section 8. Installment Payment of Assessments and Collection. The first annual installment of assessments on the Final Assessment Rolls shall become due and payable during the 30-day period succeeding the date one year after the date of first publication by the Finance Director of notice that the assessment roll is in his hands for collection and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of any assessment remains unpaid after the first 30-day period, interest upon the whole unpaid sum shall be charged at the rate as estimated above and to be finally determined in the bond ordinance, and each year thereafter one of the installments of principal together with interest due on the unpaid balance, shall be collected. Any installment not paid prior to expiration of the annual 30-day period during which such installment is due and payable shall thereupon become delinquent. Each delinquent installment shall be subject, at the time of delinquency, to a charge of 12% penalty levied on both principal and interest then due upon that installment, and all delinquent installments also shall be charged interest at the rate as determined above. The collection of such delinquent installments shall be enforced in the manner provided by law.

Section 9. Effective Date. This ordinance, being an exercise of power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication thereof.

PASSED by the City Council of the City of Lakewood, Washington, at a regular open public meeting thereof this 17th day of July, 2006.

Claudia B. Thomas, Mayor

ATTEST:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

FORM APPROVED:

\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

CERTIFICATION I, the undersigned, City Clerk of the City of Lakewood, Washington (the "City") hereby certify as follows:

1. The attached copy of Ordinance No. 418 (the "Ordinance") is a full, true and correct copy of the Ordinance duly adopted at a regular meeting of the Board held at the regular meeting place thereof on July 17, 2006 as the Ordinance appears on the minute book of the City;

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the adoption of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 17 day of July, 2006.

CITY OF LAKEWOOD, WASHINGTON

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

CERTIFICATION

I, the undersigned, City Clerk of the City of Lakewood, Washington (the "City") hereby certify as follows:

1. The attached copy of Ordinance No. 418 (the "Ordinance") is a full, true and correct copy of the Ordinance duly adopted at a regular meeting of the Board held at the regular meeting place thereof on \_\_\_\_\_ / 7, 2006 as the Ordinance appears on the minute book of the City;

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the adoption of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this <sup>1,7<sup>th</sup></sup> / 11 day of July, 2006.

CITY OF LAKEWOOD, WASHINGTON

  
\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

C-01-10  
CITY OF LAKEWOOD

FINAL ASSESSMENT ROLL  
LAKEWOOD DRIVE SW & STEILACOOM BOULEVARD SW  
SIDEWALK AND LIGHTING IMPROVEMENTS - LID 1101  
05/12/2006

LID PARCEL ID	TAX PARCEL NUMBER	LEGAL OWNER	LID ASSESSMENT	SPECIAL ASSESSMENT	TOTAL ASSESSMENT
1	4002220030 0220363033	Northwest Building LLC (aka Lakewood Industrial Park) 1300 Norton Bldg 801 2nd AVE Seattle, WA 98104	\$82,842.69	\$0.00	\$82,842.69
2	4002220020 0220363032	City of Lakewood 6000 Main ST SW Lakewood, WA 98499	\$52,591.18	\$0.00	\$52,591.18
3	0220363001	Puget Sound Energy/Elec PO Box 90868 Bellevue, WA 98009	\$13,924.00	\$0.00	\$13,924.00
4	0220363024	Clover Park School District No. 400 PO Box 99910 Lakewood, WA 98499	\$159,727.66	\$0.00	\$159,727.66
5	0220354067	Safe Place Teen Resource Center (aka Lakewood Community Center) 9112 Lakewood DR SW Lakewood, WA 98499	\$41,871.05	-\$15,000.00 see note 1	\$26,871.05
6	0220354085	Pierce County Housing Authority PO Box 45410 Tacoma, WA 98445	\$8,760.71	\$0.00	\$8,760.71

CITY OF LAKEWOOD

FINAL ASSESSMENT ROLL  
 LAKEWOOD DRIVE SW & STEILACOOM BOULEVARD SW  
 SIDEWALK AND LIGHTING IMPROVEMENTS - LID 1101  
 05/12/2006

LID PARCEL ID	TAX PARCEL NUMBER	LEGAL OWNER	LID ASSESSMENT	SPECIAL ASSESSMENT	TOTAL ASSESSMENT
7	0220358007	Donn B Tyler (aka Lakewood Hardware) 3738 Tahoma PL W University Place, WA 98466-2145	\$27,073.39	\$0.00	\$27,073.39
8	0220358006	9116 Lakewood Property LLC Woodland Realty Services Inc 119 WRoyApt4 Seattle, WA 98119-3803	\$33,444.23	\$0.00	\$33,444.23
9	0220355031	Oak Grove Village LLC Mayer Built Homes Inc 312 112th STS Tacoma, WA 98444-5716	\$437,560.42	\$12,066.58 \$30,000.00 see note 2	\$479,627.00
10	0220355030	Wedgewood Tacoma LP 312 112th ST S Tacoma, WA 98444	\$184,641.96	\$0.00	\$184,641.96
11	0220362020	State of Washington Clover Park Techincal College 4500 Steilacoom Blvd Lakewood, WA 98499	\$337,671.94	\$172,714.25 see note 3	\$510,386.19
12	0220354092	Clover Park School District No 400 10903 Gravelly Lake Dr Sw Lakewood, WA 98499-1341	\$163,790.47	\$0.00	\$163,790.47

note 1: pre-paid amount for fee in lieu of for frontage improvements required under Building Permit No. 990091

note 2: \$12,066.58- north bound Lakewood DR SW right turn lane into Oak Grove Village, \$30,000 - phone undergrounding

note 3: traffic signal at Hageness Drive SW and Stellacoom Blvd SW

C-02-10

CITY OF LAKEWOOD

FINAL ASSESSMENT ROLL  
WESTERN STATE HOSPITAL  
SIDEWALK AND STREET LIGHTING IMPROVEMENTS - LID 1102  
05/12/2006

LID PARCEL ID	TAX PARCEL NUMBER	LEGAL OWNER	LID ASSESSMENT	SPECIAL ASSESSMENT	TOTAL ASSESSMENT
1	0220321000	State of Washington Attn: Business Office 9601 Steilacoom Blvd SW Lakewood, WA 98498-7213	\$1,171,824.60	\$75,135.12 see note 1	\$1,246,959.72

note 1: removal and replacement of trees



CITY OF LAKEWOOD

FINAL ASSESSMENT ROLL  
GRAVELLY LAKE DRIVE SW/PACIFIC HIGHWAY SW  
SIDEWALK AND STREET LIGHTING IMPROVEMENTS - LID 1103  
05/12/2006

LID PARCEL ID	TAX PARCEL NUMBER	LEGAL OWNER	LID ASSESSMENT	SPECIAL ASSESSMENT	TOTAL ASSESSMENT
1	0219142075	Conocophillips Attn: Marketing PO Box 1539 Paso Robles, CA 93447	\$100,000.00	\$0.00	\$100,000.00