

Ordinance No. 81- 167

426

AN ORDINANCE CREATING THE NOR'WOOD  
SPECIAL IMPROVEMENT MAINTENANCE DISTRICT  
AND IMPOSING AN ASSESSMENT UPON REAL  
PROPERTY WITHIN THE DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
COLORADO SPRINGS:

Section 1. Purpose of District. The purpose of  
the Nor'wood Special Improvement Maintenance District is to  
provide for the maintenance of certain public improvements  
on and along certain roadways within the District. The  
public improvements to be maintained include landscaping,  
fencing, pillars, medians, entry islands, utility rights-of-  
way, irrigation facilities and associated water system  
improvements, theme areas and neighborhood theme signage  
which will be located on and along the following streets:

Dublin Boulevard from its current easterly  
termination point to the current easterly annexation  
line of the City.

Rangewood Drive from Templeton Gap Boulevard  
to Woodmen Valley Road.

Templeton Gap Boulevard from Lariat Drive to  
Woodmen Valley Road.

Vickers Drive from the 3700 block to Templeton  
Gap Boulevard.

All other streets designated as major or minor arterial streets in the Nor'wood Master Plan approved by the City on July 22, 1980 and amended on May 12, 1981, and as it may be hereafter amended.

The public improvements to be maintained are those for which the City Council would not normally appropriate funds for such maintenance. The use of the funds generated by the Nor'wood Special Improvement Maintenance District for the maintenance of these public improvements thus provides a special benefit to the District which the petition requesting the formation of the District indicates is desired by the landowners within the District. The City Council concludes that the formation of this District will provide for the maintenance of these public improvements and the conferring of these special benefits in a manner that will fairly and equitably be apportioned among those who receive these special benefits.

Section 2. District Created. Pursuant to Chapter 19, Article 9 of the Code of the City of Colorado Springs 1980, as amended, there is hereby created the Nor'wood Special Improvement Maintenance District, consisting of all the following described land in the City of Colorado Springs, Colorado:

A portion of Sections 10, 11, 14 and 15, Township 13 South, Range 66 West of the 6th P.M., described as follows:

Beginning at the intersection of the centerline of Union Boulevard and the Northerly line of Deliverance Subdivision, Filings No. 1 and No. 2, according to the recorded plat thereof, from which the Northwest corner of said Deliverance Subdivision bears S.89°-56'-44"W., a distance of 60.00 feet; thence Easterly along the Northerly line of said Deliverance Subdivision, Filings No. 1 and No. 2, to the Northeast corner of said Deliverance Subdivision; thence Southerly along the Easterly lines of said Deliverance Subdivision Filings No. 1 and No. 2, and La Cresta Vista Grande Subdivision, Filing No. 4, according to the recorded plat thereof, and Flintridge Hill, Norwood Filing No. 3, according to the recorded plat thereof, and the Eastside Church of Christ Subdivision, according to the recorded plat thereof, to the most Northerly corner of Cornerstone Baptist Church Subdivision, according to the recorded plat thereof; thence Southerly, along the East line of said Cornerstone Baptist Church Subdivision, the following three courses:

1. S.02°-20'-45"E., a distance of 80.00 feet;
2. S.40°-45'-19"E., a distance of 426.72 feet;
3. S.40°-54'-52"W., a distance of 100.00 feet;

thence Easterly, along the Southerly line of a tract as recorded in Book 3277 at Page 658, El Paso County records, the following three courses:

1. S.76°-12'-50"E., a distance of 630.00 feet;
2. N.55°-00'-00"E., a distance of 280.00 feet;
3. N.88°-04'-05"E., a distance of 174.20 feet;

thence N.10°-57'-45"W., a distance of 440.96 feet;  
 thence N.79°-02'-15"E., a distance of 300.00 feet;  
 thence along an arc of a curve to the left whose  $\Delta$  42-49-69  
 radius is 1300.00 feet, a distance of 1441.76 feet;  
 thence S.88°-43'-56"E., a distance of 1374.66 feet;  
 thence S.79°-15'-00"E., a distance of 258.63 feet;  
 thence S.15°-30'-00"E., a distance of 297.11 feet;  
 thence S.34°-30'-00"E., a distance of 880.00 feet;  
 thence S.05°-21'-44"W., a distance of 594.25 feet;  
 thence S.56°-30'-00"W., a distance of 470.00 feet;  
 thence East, to the East line of said Section 14, being the East line of the Annexation Plat, Pring Ranch Addition No. 5; thence Northerly, along the East line of Sections 11 and 14 to the Northeast

corner of said Section 11; thence Westerly, along the said North line of Section 11, to the North one-quarter corner of said Section 11; thence Southerly, along the North-South centerline of said Section 11, a distance of 1309.39 feet to the Northeast corner of the S 1/2 of the NW 1/4 of said Section 11, being the Northeast corner of the Annexation Plat, Pring Ranch Addition No. 3; thence Westerly, along the North line of the S 1/2 of the NW 1/4 of said Section 11 to the Northwest corner of the S 1/2 of the NW 1/4 of said Section 11; thence Westerly, along the North line of the S 1/2 of the NE 1/4 of said Section 10, to the Southerly line of Woodmen Road, according to said Pring Ranch Addition No. 3; thence Southwesterly along said South line of Woodmen Road to the North-South centerline of said Section 10; thence Southerly, along the said North-South centerline to the center of said Section 10; thence Westerly, along the East-West centerline of Section 10, to the Southerly line of said Woodmen Road; thence Westerly, along the said Southerly line of Woodmen Road, to the West line of said Section 10, being the centerline of Union Boulevard; thence Southerly, along the said West line of Section 10, to the Point of Beginning. All situate in El Paso County, Colorado.

Section 3. Maintenance of Improvements. At such times as specific improvements within the District are completed or can otherwise be identified with particularity, the Advisory Committee created by Section 8 below, in consultation with the Department of Parks and Recreation, shall recommend to the City Council which improvements shall be subject to this Ordinance, and this Ordinance shall be amended to identify precisely those improvements which are to be included within the District. Thereafter, the City, through the Department of Parks and Recreation, will provide reasonable and ordinary maintenance and repair of such

improvements when the improvements have been completed and accepted by the City and after the applicable developer's warranty period has expired; provided, however, that the City will not be required to commence maintenance of any improvements within the District prior to January 1, 1984. The City intends to contract with outside parties to perform the maintenance contemplated by this Ordinance..

Section 4. Assessment Levied. The assessment to be made against the real properties in the District and to be paid by the owners therein for the first year after any portion of the subject public improvements are completed for the purposes contemplated by this Ordinance, shall be determined by the City Council, with the advice of the Advisory Committee created by Section 8 below. The assessment shall be based on the assessed dollar value of the real property (excluding taxable personal property) within the District and an appropriate mill levy. This mill levy shall be reviewed annually as the assessed valuation of real property (excluding taxable personal property) within the District is known and the budgetary needs of the District for the coming calendar year are determined, but in no case shall the mill levy exceed five mills. The assessment levied hereby shall be payable by property owners in the District at the same time and in the same manner as general real property taxes. All monies collected from such assessments shall be used

only for the purposes set forth in Section 2 of this Ordinance. If a mill levy of five mills has been imposed but funds raised from the assessment are insufficient to fully maintain all improvements within the District, and the mill levy limit is not increased as provided by Chapter 19, Article 9, Section 108 of the Code of the City of Colorado Springs 1980, as amended, then the City may provide a reduced level of service and maintenance for improvements within the District. Similarly, if a limitation on mill levies or property taxes is imposed by a governmental entity other than the City, and consequently the assessment becomes inadequate to fully maintain all improvements within the District, then the City may provide a reduced level of service and maintenance for such improvements.

Section 5. Effective Date of Assessment. The improvements which are the subject of this Ordinance are to be completed in phases by the developers of the property within the District, and the entire District will not immediately benefit from such improvements. Therefore, it is hereby declared that the assessment imposed by Section 4 above shall not be levied against any portion of the real property within the District until the calendar year following the year during which a plat of such real property, approved pursuant to subdivision ordinances of the City, is filed for record in El Paso County. At such time as all streets and

improvements identified in Section 2 above have been completed, all real property within the District shall be deemed benefited and the assessment shall be levied against the entire District during the following calendar year, regardless of whether a plat has been recorded for all portions of the property within the District.

Section 6. Initial Assessment; Date Maintenance to Commence. It is contemplated that the first improvements subject to this Ordinance shall be completed during the year 1982. Accordingly, the initial assessment levied pursuant to Section 4 above shall be determined by the City Council no later than October 1, 1982, and shall be collected during 1983. Maintenance of improvements within the District during 1982 and 1983 shall be the responsibility of, and at the expense of, the developer of such improvements. The City will assume responsibility for maintaining the improvements within the District on January 1, 1984.

Section 7. Assessment Lien. The taxes levied in accordance with the assessment created by this Ordinance, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall constitute a lien, until paid, on and against the property taxed, and such lien shall be a lien as for all other general taxes.

Section 8. Advisory Committee Created. There is hereby created the Nor'wood Special Improvement Maintenance District Advisory Committee for the Nor'wood Special Improvement Maintenance District.

Section 9. Advisory Committee Membership; Meetings.

A. The Advisory Committee shall be composed of from four to five members, each of whom shall own taxable real property within the District.

1. A corporate owner may designate an officer or shareholder to serve on the Committee; provided, however, that no corporation may be represented on the Committee by more than one officer or shareholder.

2. A partnership owner or other co-ownership may be represented by one partner or co-owner.

3. A trustee, other than a trustee under a trust deed (mortgage) for security purposes, may serve; provided, however, that if the trustee is a corporation the foregoing provision as to corporate representation shall apply.

4. An attorney-in-fact deriving his authority from an acknowledged power of attorney may serve on the Committee.

B. Ownership of more than a single property in the District shall not entitle the owner, whether a natural person or persons, a partnership, a corporation, a representative (i.e., trustee or attorney-in-fact), or any other legal



entity to multiple membership on the Committee, it being the intention of City Council that the Committee shall be broad-based and representative of the entire District.

C. The Committee shall elect its own chairman and vice-chairman and shall adopt necessary bylaws for its own governance. A majority of the entire membership of the Committee shall be required to support a recommendation to City Council.

D. The Committee shall meet on the call of its duly elected chairman or, in his absence, the vice-chairman, but in no event less than once a year, so that a recommendation relating to the public improvements to be maintained, the budget, required mill levy, and other appropriate recommendations may be forwarded to the City Council on or before September 1 of each year.

E. The initial three members of the Committee shall be David D. Jenkins, Roy I. Pring and B. J. Davis. These initial three members shall, by majority vote, appoint the fourth and fifth members by June 15, 1982. Each such member shall serve for so long as he owns taxable real property within the District or until December 31, 1995, whichever occurs first. In the event that a member ceases to own taxable real property in the District, a replacement member shall be selected by the remaining Committee members who continue to own such property. After December 31, 1995,

the members of the Committee shall be elected by a vote of the owners of taxable real property within the District. In elections of Committee members, each owner in fee simple of a parcel of taxable real property within the District shall be entitled to one vote, regardless of the amount of property owned. Owners who are joint tenants, tenants in common, or otherwise own a fractional fee simple interest shall be entitled to fractional votes equal to their fractional shares.

Section 10. Advisory Committee Duties and Functions.

The duties and functions of the Committee shall be:

A. To advise the City Council of the level, extent and effectiveness of maintenance needed to be provided for those public improvements which have been uniquely developed for the Nor'wood Special Improvement Maintenance District.

B. To review and recommend a proposed budget and resultant mill levy to support said maintenance for the ensuing fiscal year.

C. To advise on any other matters determined to concern the operation of the District, including but not limited to supplemental maintenance to public improvements normally maintained by other entities and individuals.

D. To advise and make recommendations as to any contracts involving the use of public monies within the

District which will affect the level or the extent or the effectiveness of required maintenance.

E. The Committee shall have no obligation to manage the District or administer or collect the assessments created by this Ordinance, as these functions shall be performed by the City.

Section 11. Obligation of City. Except as expressly provided herein, this Ordinance is not intended to impose upon the City any obligation to provide higher maintenance and service within the District than provided elsewhere in the City. If the City adopts and implements plans or policies which result in improvements in other areas of the City similar to improvements within the District (such as, but not limited to, street medians) being constructed and thereafter maintained from general tax revenues of the City, the City may also, but shall not be required to, provide equivalent maintenance, funded by general tax revenues, for similar improvements within the District, in which case such improvements would no longer be considered in determining the assessment for the District.

Section 12. Exclusion of Streets from the District. Upon recommendation of the Advisory Committee, the City Council may exclude improvements on or along any street within the District from the purposes contemplated by this Ordinance, in which case the cost of maintaining such improvements shall not be considered in determining the assessment

to be made against the real properties in the District, and any maintenance required for such improvements shall be performed by the City without regard to this Ordinance.

Section 13. Additions to the District. The City acknowledges that the owners and developers of the Nor'wood area may in the future request the annexation of an additional 500-600 acres of land to the City of Colorado Springs. Any such property which is annexed to the City may be added to the District pursuant to Section 19-9-109 of the Code of the City of Colorado Springs 1980, as amended, and in such event, the purposes of the District may be expanded to include additional improvements within the District in connection with contemplated arterial roads, provided such improvements are similar to these identified in Section 2.

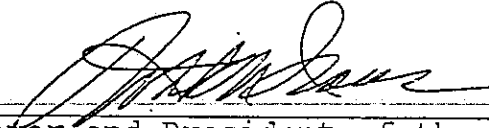
Section 14. Notification to Purchasers. All individuals, corporations, partnerships or other entities engaged in the business of selling homes or lots to residential users shall, at or prior to the time that contracts for sale of homes or lots to residential users are executed, deliver to the prospective purchasers a copy of this Ordinance, as it may be hereafter amended.


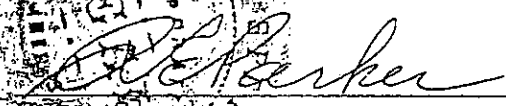
Section 15. Severability. If any portion of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can

be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 16. Force and Effect. This Ordinance shall be in full force and effect from and after its passage and publication as provided by the Charter, and shall be filed in the office of the County Clerk and Recorder of El Paso County, as provided by law.

Introduced, read, passed on first reading and ordered published this 28th day of July, 1981.

  
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Mayor and President of the Council

  
  
\_\_\_\_\_  
County Clerk

Finally passed, adopted and approved this 11th day of August, 1981.

[Signature]  
Mayor

ATTESTO [Signature]  
City Clerk

I HEREBY CERTIFY, that the foregoing ordinance entitled "AN ORDINANCE  
CREATING THE NORWOOD SPECIAL IMPROVEMENT MAINTENANCE DISTRICT AND IMPOSING AN  
ASSESSMENT UPON REAL PROPERTY WITHIN THE DISTRICT"

was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on July 28, 1981; that said ordinance was passed at a regular meeting of the City Council of said City, held on the 11th day of August, 1981, and that the same was published in full in the Colorado Springs Sun, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 11th day of August 1981

[Signature]  
City Clerk