

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF A SYSTEM OF SANITARY SEWERAGE WITHIN MELLON AVENUE BETWEEN CLEVELAND TERRACE AND KITCHENER AVENUE IN BLOCKS 175.08 AND 175.14 OF THE TOWNSHIP OF WEST ORANGE AS LOCAL IMPROVEMENTS TO BE ASSESSED UPON THE ABUTTING LAND PURSUANT TO N.J.S.A. 40:49-6 AND N.J.S.A. 40:56-1 ET.SEQ.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY, as follows:

I. AUTHORITY AND PURPOSE

Pursuant to N.J.S.A. 40:56-1, *et seq.*, any municipality, by ordinance, may undertake as a local improvement, the cost of which or a portion thereof, may be assessed upon the lands in the vicinity thereof benefitted thereby, the construction, reconstruction, enlargement or extension of a sewer or drain, in under or along a street, or any public or private lands, among other things, and whenever convenient, more than one of the works provided for in the statute may be carried on as one improvement. The sanitary sewerage system of the Township of West Orange needs to be extended into Mellon Avenue between Cleveland Terrace and Kitchener to service five lots along that street that do not have sanitary sewer service including two lots with building improvements that currently have subsurface underground individual sewage disposal systems commonly known as septic systems. The owner of the two lots with building improvements requested the Township install the sanitary sewerage system improvements as a Local Improvement.

Notice of this Ordinance shall comply in all respects with N.J.S.A. 40:49-6, following its special procedures, including published notice at least 10 days before the hearing and consideration on second reading for final adoption, and mailing at least one week before such hearing a copy of the Ordinance together with notice of introduction thereof, and the time and place when and where the ordinance shall be further considered for final passage, to every person whose lands may be affected by the Ordinance or any assessment which may be made in pursuance of the Ordinance, directed to such person's last known post-office address. Pursuant to N.J.S.A. 40:49-7, unless determined to be a public necessity, the proposed local improvements shall not be undertaken in the event that objections thereto in writing are filed with the Municipal Clerk before the final passage of this Ordinance by the owners of at least two thirds in assessed value of the lands proposed to be assessed for benefits accruing from such improvements, using the last preceding valuation for the purpose of taxation.

Following adoption of this Ordinance, one or more Bond Ordinances Authorizing Local Improvements, including those contemplated herein and any others which may be joined with it, authorizing the issuance of Bonds or Notes to finance the cost of such Local Improvements, shall be submitted for approval by the Township Council.

II. SCOPE OF IMPROVEMENTS

The Township Council of the Township of West Orange hereby, and through the adoption of this Ordinance, accepts and agrees to undertake as a local improvement pursuant to N.J.S.A. 40:56-1, *et seq.*, the construction of a sanitary sewerage system in Mellon Avenue between Cleveland Terrace and Kitchener Avenue as set forth on the annexed Exhibit "A" and including for all such construction all work and materials necessary for or incidental to such improvements, and all as shown on and in accordance with plans on file in the Office of the Township Clerk and hereby approved.

III. METHOD OF ASSESSMENT

Each property owner within Mellon Avenue between Cleveland Terrace and Mellon Avenue as identified in Exhibit "B" shall be assessed in accordance with the benefits derived from these local improvements, allocating to each their proportionate share of all of the actual costs, including, without limitation, engineering fees, costs and expenses, attorney's fees, costs and expenses, publication fees, and actual costs of labor, materials, supplies and construction of all of the improvements, as reflected in the principal amounts due on the bonds sold to finance these local improvements and the interest payments thereon.

IV. WRITTEN OBJECTIONS

Pursuant to N.J.S.A. 40:49-7, unless determined to be a public necessity, the proposed local improvements shall not be undertaken in the event that objections thereto in writing are filed with the Municipal Clerk before the final passage of this Ordinance by the owners of at least two-thirds in assessed value of the lands proposed to be assessed for benefits accruing from such improvements, using the last preceding valuation for the purpose of taxation. The valuation is listed in Exhibit "B".

V. NOTICE TO LANDOWNERS TO BE ASSESSED

Notice of this Ordinance shall comply in all respects with N.J.S.A. 40:49-6, following its special procedures, including published notice at least 10 days before the hearing and consideration on second reading for final adoption, and mailing at least one week before such hearing a copy of the Ordinance together with notice of introduction thereof, and the time and place when and where the ordinance shall be further considered for final passage, to every person whose lands may be affected by the Ordinance or any assessment which may be made in pursuance of the Ordinance, directed to the such person's last known post-office address.

VI. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township of West Orange which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

VII. SEVERABILITY

If any part of the Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of the ordinance.

VIII. EFFECTIVE DATE

Pursuant to N.J.S.A. 40-49-9, this Ordinance shall take effect and become operative ten days after publication thereof after its final passage, unless within that ten day period a protest against making the improvement shall be filed in the office of the municipal clerk signed by taxpayers representing at least ten percent in amount of the assessed valuation of the municipality, whose names appear the ratification thereof, in which case this ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted, at an election to be held for that purpose, by a majority of the qualified voters of the municipality voting on the proposition. The certificate of the Municipal Clerk filed in her office as to the filing or sufficiency of any protest shall be conclusive for the purposes of the section.

ROBERT D. PARISI, MAYOR

CINDY MATUTE-BROWN, COUNCIL PRESIDENT

KAREN J. CARNEVALE, R.M.C., MUNICIPAL CLERK

INTRODUCED: June 22, 2021

ADOPTED: July 13, 2021

LEGISLATIVE HISTORY

This Ordinance enables the Township to install a sanitary sewerage system in Mellon Avenue between Cleveland Terrace and Mellon Avenue for the benefit of the property owners within that block with the costs of the improvements assessed against the benefitting property owners. This is known as a local improvement and the authority for a Municipality to make such improvements and assess for their costs is pursuant to N.J.S.A. 40:56-1 et seq. Pursuant to N.J.S.A. 40:49-7 such improvements shall not be undertaken if before final passage of the Ordinance written objections are filed with the Municipal Clerk by the owners of at least two-thirds in assessed value of the lands proposed to be assessed for benefits accruing from such improvements.