

3.04.010--3.04.020

Chapter 3.04

LOCAL IMPROVEMENT ASSESSMENTS

Sections:

- 3.04.010 Short title.
- 3.04.020 Definitions.
- 3.04.030 Resolution of intent to improve--Engineering report.
- 3.04.040 Method of assessing costs within a district.
- 3.04.050 Notice--Objections--Public hearing.
- 3.04.060 Ordinance to create a local improvement district.
- 3.04.070 General procedure for constructing improvements.
- 3.04.080 Assessment of costs.
- 3.04.090 Installment payments of development or connection charge--  
Additional costs.
- 3.04.100 Public hearing--Ordinance confirmation assessments--Lien  
recording.
- 3.04.110 Interest and foreclosure.
- 3.04.120 Parking improvements.
- 3.04.130 Reassessments.
- 3.04.140 Rebonding.
- 3.04.150 Reinstatement.
- 3.04.160 Miscellaneous provisions.
- 3.04.170 Abandonment of proceedings.
- 3.04.180 Curative provision.
- 3.04.190 Data processing and tax lot number.

3.04.010 Short title. The ordinance codified in this chapter shall be known as the “improvement district ordinance” of the city. (Ord. 310 §1, 1971)

3.04.020 Definitions. The following words shall have the meanings respectively ascribed to them in this section, when used in this chapter, excepting in those instances where the context indicates a different meaning:

“Local improvement” means opening, laying out, widening, extending, altering, changing the grade of, constructing, reconstructing or repairing any street, alley or sidewalk; constructing, reconstructing or repairing any sewer, drain or system thereof; laying or installing any water main; acquiring, establishing, or reconstructing any off-street motor vehicle parking facility; or performing any other public work including acquiring any interest in land by condemnation or otherwise for a public work for which an assessment may be made on the property specially benefited.

“Lot” means lot, block or parcel of land.

(Scappoose 8/99)

32

3.04.030

"Owner" means the owner of the title to real property or the contract purchaser of real property, of record, as shown on the latest available complete assessment roll in the office of the county assessor.

"Property benefited" means all property specifically benefited by the improvement, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the total cost of the improvement between the properties determined to be specially benefited therefrom.

"Property description." Real property may be described by stating the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and additional names, or by reference to the book and page or microfilm number of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the county assessor of description of real properties of the county. Any of the above descriptions is sufficient in all proceedings of assessment for a special assessment district including foreclosure and sale of delinquent assessments and in any other proceeding related to the levying, billing, collecting and enforcing special assessments when so permitted by the laws of the state. (Ord. 310 §2, 1971)

3.04.030 Resolution of intent to improve--Engineering report. Whenever the council determines either by petition by property owners or on its own motion to proceed to make an improvement to be paid for in whole or in part by assessing the property benefited, the council shall by resolution declare its intent to initiate the local improvement, shall assign a project number thereto and shall direct the city recorder-treasurer to prepare a survey and map of the project. The map and engineering report shall be filed with the city recorder-treasurer within thirty days after the date of the resolution of intent unless the council by motion grants an extension of time. The engineering report shall contain:

32-1 (Scappoose 8/99)

3.04.040

- A. The project title and number;
- B. A description in general terms of the project and a description of the boundaries specially benefited thereby and to be assessed for the improvement together with the description and nature of any interests in land to be acquired by condemnation or otherwise and the name or names of persons found by certificate from a reputable title company, or by search of the county assessor's records to be the owner or owners of property within the boundaries of said benefited local improvement district;
- C. An estimate of the probable cost of the project, which estimate shall include

- legal, administrative and engineering costs attributable to the project;
- D. A statement of the total assessed value, as shown by the report of said title company or by search of the county assessor's records, of the property within the district to be specially benefitted;
- E. A statement of the total of any existing unpaid city street, sewer, water system, or any other improvement assessments which are liens against the property in the district;
- F. A recommendation as to the feasibility of the project. (Ord. 310 §3, 1971)

3.04.040 Method of assessing costs within a district.

In proposing a method of assessment of the costs of the local improvement, the following shall be considered:

1. The use of any just and reasonable method determining the extent of the district boundaries consistent with the benefits derived;
2. The use of any method of apportioning the sum to be assessed as is just and reasonable among the properties determined to be specially benefitted;
3. Payment by the city of all or any part of the cost of any improvement when, in the opinion of the city council, on account of topographical or physical conditions, unusual or excessive use by the general public, or other character of work involved, or when the council otherwise believes the situation warrants; provided that proportion to be paid by the city represents a reasonable relation between the benefits derived by the property specially assessed and the benefits derived by the city as a whole.

The council may use any other available means of financing an improvement, including for example federal or state grants, service charges, general obligation warrants, bonds or any other legal means of finance. In the event any other means of finance is used, the council may, in its

33

3.04.050--3.04.060

discretion, levy special assessments under this chapter according to benefits to cover any part of the costs of the local improvement not covered by the other means. (Ord. 310 §4, 1971)

3.04.050 Notice--Objections--Public hearing. A. Within five, days after the engineering report and map have been filed, the city recorder-treasurer shall make provision for at least ten days' notice of a public hearing to the owners of property within. The proposed district in which the local improvement is contemplated, which notice may be made by posting, by newspaper publication or by mail or by any combination of such methods. The notice shall specify the time and place where the council will hear and consider objections or remonstrances to the proposed local improvement by any parties aggrieved thereby. The notice shall state that the map and engineering report are on file in the recorder-treasurer's office and shall state the date of that filing. The notice shall give a description of the proposed local improvement in general terms, the estimated probable cost of the proposed improvement, a description of the boundaries of the district specifically benefitted by the proposed local

improvement and proposed to be assessed therefor and shall notify all interested persons to present their written remonstrances and objections, if any, to the office of the city recorder-treasurer hereafter described. The notice shall notify interested persons that objections and remonstrances, if any, together with the map and engineering report will be considered by the city council at the time and place stated in the notice.

B. The city council shall hold the public hearing and consider the objections and remonstrances, if any, and consider the map and engineering report at the time and place specified in the notice. In the case of a street or alley improvement, if the owners of two-thirds of the property measured by area within the local improvement district object or remonstrate against the proposed improvement, they shall defeat and prevent the local improvement and no further action shall be taken for six months.

C. Remonstrances and objections against any other local improvement districts will be considered, but the city council may overrule any such remonstrance and proceed with the said improvement districts. (Ord. 310 §5, 1971)

3.04.060 Ordinance to create a local improvement district. A. After the time for filing, remonstrances has expired, and after the public hearing, if, the local improvement district has not been defeated by a sufficient remonstrance, the council, may, by ordinance, provide for the creation of the local improvement district. This ordinance shall describe the improvement to be made and the

34

3.04.070

boundary of the district. The ordinance shall also provide that the costs of the improvement which are assessed against the properties benefited shall be charges and liens against the property. The city may enforce collection of such assessments as provided by ORS 223.505 to 223.650, or in any other manner provided by law.

B. In creating the local improvement by ordinance, the council shall consider the objections and remonstrances made thereto, and the reasons stated therefor. The council may correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special benefits accruing thereto from the local improvement.

The above-mentioned ordinance shall also direct that the city recorder-treasurer cause detailed plans and specifications of the improvement to be prepared and that when appropriate, the council shall approve the plans and specifications by motion or resolution and that thereafter the city recorder-treasurer shall properly invite bids for the construction of the improvements. All bidders shall be prequalified, shall submit the usual bid deposit or bid bonds, and the successful bidder shall furnish a faithful performance bond when required to do so by the laws of the state and/or the specifications for the improvement project. (Ord. 310 §6, 1971)

3.04.070 General procedure for constructing improvements. A. It shall be the

general policy of the city to call for bids for making local improvements and to award the bid to the lowest responsible bidder. This general policy, however, shall not prohibit the council from providing that the city shall construct a local improvement rather than private contractors.

B. In the event that two or more local improvement districts are combined for advertising for bids at the same time, each local improvement district so combined shall be bid separately. In addition, as an alternate, the city recorder-treasurer may lump together the total estimated bid quantities of all the districts combined for bidding and may call for bids on the total estimated quantities involved. The council may accept the lowest aggregate bid using total estimated bid quantities for all the districts combined for bidding, and shall allocate and compute the amount bid for the combined districts and for each separate district. The council may, in its discretion, reject any bid submitted for the combined districts if the total of that bid exceeds the aggregate total estimated cost of each of the districts combined for bidding. The council may reject any bid for any individual district even though the

35

#### 3.04.080

bid may comply with the requirements of this chapter when the aggregate bid for the combined districts fails to meet the requirements of any other local improvement district combined for bidding purposes.

C. In the course of constructing an improvement, if the chairman of the water committee in the case of a water main improvement, or the city engineer in the case of any other improvement, determines that the improvement cannot be constructed in exact compliance with the plans and specifications approved by the city council, he may order one or more changes in those plans and specifications if he determines, in his reasonable discretion that the improvement including such change or changes will be completed substantially as approved by the council and in the manner consistent with reasonable engineering and construction practices and at an assessable cost not more than five percent greater than the assessable cost would have been if the improvement were completed exactly according to the plans and specifications approved by the city council. (Ord. 310 §7, 1971)

3.04.080 Assessment of costs. A. Assessment After Completion. When the improvement has been completed, the cost shall be determined by adding to the contract price of the work, or, if not contracted, the city work crew costs of the work, the cost of right-of-way, condemnation expenses, cost of engineering, supervision, inspection, advertising, legal expenses, and any other necessary and proper expenses, which costs and expenses shall be a part of the amounts to be assessed to the benefited properties.

B. Assessment Roll. The final report of the above costs shall be submitted to the city council; and when the final report has been approved by motion of the city council, the city engineer shall prepare a proposed assessment roll ordering and describing each lot to be assessed, with the names of the owners, and shall levy against those lots in a manner directed by the council and provisions of

ordinances applicable to special assessments. The proposed assessment roll shall be submitted for the approval of the city recorder-treasurer. The city recorder-treasurer may require the engineer to make any changes or modifications in the proposed assessment roll. When the proposed assessment roll has been approved by the city recorder-treasurer, he shall refer it to the city council for review, modification, acceptance, or rejection by the council.

C. Notice of Public Hearing. When the proposed assessment roll is received for filing, the city recorder/treasurer shall publish a notice of the time and place of a public hearing in a newspaper of general circulation published in the county at least ten days before the public

36

### 3.04.080

hearing. The notice shall state that at the public hearing the city council will, at a stated time and place, consider oral and written remonstrances to the proposed assessment roll, and that written remonstrances should be filed with the city recorder prior to the public hearing. This notice shall state that within ten days of the time of publication of this notice, the owner of the assessed properties may file with the city recorder-treasurer, on a form provided for the purpose, an application to pay the assessment in whole or in part on an installment basis, as provided by the Bancroft Bonding Act, OR 223.205 to 223.300, which is adopted by reference and made a part of this chapter. This notice shall also state that, if the assessment is not eligible under the provisions of the Bancroft Bonding Act, or if the owner of the assessed property does not apply to use the installment basis, all or part of the assessment shall be excluded from the installment payment procedure and shall be paid in full by cash within thirty days of the date of entry in the unbonded lien docket.

D. Mailing of Notice. The city recorder-treasurer shall, at least ten days before the public hearing, mail a notice to each owner of property to be assessed, which notice shall be deposited in the post office in the city, postage prepaid, addressed to such owners at their last known address. If the address of the owner is unknown to the recorder-treasurer, he shall mail the notice to the owner or his agent at the address where the property to be assessed is located. The mailed notice shall show the amount proposed to be assessed to the addressee, owner of property proposed to be assessed.

E. Contents of Application. The contents of the application to pay assessments on the installment basis shall be as provided by ORS 223.215.

F. Preassessment of Costs. The city council may, in its discretion, preassess the estimated cost of improvements as follows:

1. At any time after the ordinance is passed creating the local improvement district provided in Section 3.04.060 and prior to the completion of the project required in subsection A of this section, the city may estimate the total cost of the project to be assessed;
2. The city shall apportion the estimated cost of the project to the benefited properties within the district pursuant to Section 3.04.040 and subsection A of this section;

3. The city shall then proceed with the assessment procedure as set forth in this chapter for assessments made after completion of the project;

37

3.04.090

4. All costs shall be assembled and the final cost arrived at on completion of the project. Any additional costs, above the estimated cost, will be assessed to the benefited properties on the same basis as the preassessments. Any assessment amounts in excess of the actual cost shall be credited toward the assessment on the benefited property. The credit shall apply toward the payments due, in chronological order, until the excess is exhausted. (Ord. 454 §1, 1982; Ord. 310 §8, 1971)

3.04.090 Installment payments of development or connection charge--Additional costs.

When the owner or agent of the owner of property which is subject to a development or connection charge as defined by ORS 223.208 makes application to the city to pay said development or connection charge by installments under the provisions of ORS 223.205, 223.210 to 223.295 (the Bancroft Bonding Act), the following costs and expenses shall be added to and become a part of the charge and assessment of the charge against the benefited property:

- A. An amount equal to the estimated cost to the city for the following items:
  - 1. Legal fees incurred for review of all documents, acquisition of easements, interim financing and the issuance and sale of the Bancroft bond or bonds of the applicant, including legal fees incurred by the city in connection with the issuance of said bonds and legal fees incurred by the city for obtaining a legal approving opinion from bond counsel selected by the city;
  - 2. Publication costs incurred to advertise the notice of sale of the interim financing notes or warrants and Bancroft bond or bonds;
  - 3. Printing costs incurred for the printing of the bond or bonds and coupon or coupons.

B. The following administrative charge shall be made by and paid to the city based on the entire cost of the project or the financing required and obtained, whichever is the greater. This includes construction contract, engineering, legal fees, including bond counsel, advertising and other expenses to city:

\$ 0 to \$ 100,000...	\$ 5,000	Minimum charge
100,000 to 300,000...	5,000 + 2% over	100,000
300,000 to 500,000...	7,000 + 1½% over	300,000
500,000 to 1,000,000...	10,000 + 1% over	500,000
Over 1,000,000...	15,000 + ¾% over	1,000,000

C. Local improvement districts involving the repair, replacement, renovation of streets, sidewalks, curbs, sewer and water lines, and the widening of existing streets and installation of sidewalks and curbs on existing improved

|

38

3.04.100

streets shall be charged by and paid to the city as follows:

\$ 0 to \$ 20,000. . . \$ 500 or 3% whichever is greater  
20,000 to 50,000. . . 500 + 2% over 20,000  
50,000 to 100,000. . . 1,100 + 1% over 50,000  
Over 100,000. . . 1,600 + 3/4% over 100,000

D. The city manager is authorized to make and determine the estimated costs under this section. The determination of the city manager shall be final and conclusive of any such costs. (Ord. 604, 1993; Ord. 431 §1, 1981; Ord. 405 §1, 1980)

3.04.100 Public hearing--Ordinance confirmation assessments--Lien recording.

A. The city council shall hold a public hearing on the proposed assessment roll at the time and place stated in the notice of public hearing. The council may continue the hearing.

B. After hearing the remonstrances, if any, the council may refer the proposed assessment roll to the city recorder-treasurer for correction or adjustment or may make corrections or adjustments consistent with the standard provided in Section 3.04.040 and shall pass an assessment ordinance confirming the assessment roll including any corrections or adjustments providing for the assessment of the benefited properties, and for the apportionment of the assessment to the individual lots within the local improvement district.

C. Immediately after the city council has approved the assessment ordinance, the city recorder-treasurer shall enter the assessments in the city unbonded lien docket, which assessments shall be a lien and charge upon the respective lots against which they are placed. Such liens shall be first and prior to all other liens or encumbrances insofar as the laws of Oregon allow.

D. After applications have been made by the owners of assessed property to have the assessments bonded under the Bancroft Bonding Act to provide for the installment payment procedure, the city recorder-treasurer shall make proper entry in the unbonded lien docket and transfer such assessments from the unbonded lien docket to the bond lien docket, as provided by ORS 223.230.

E. If there is no response from a property owner within thirty days after the notice is mailed, the city recorder-treasurer shall verify the ownership of the property with a licensed title company or by any other means and shall mail a copy of the assessment notice to the owner so identified by certified mail. (Ord. 310 §9, 1971)

39

3.04.110--3.04.130

3.04.110 Interest and foreclosure. A. Interest. Interest shall be charged at the rate of ten percent per annum until paid on the principal balance remaining on the city lien docket from the date of such entry, or of such entry corrected pursuant to any provision of this ordinance, except that no interest shall be

charged on that portion of the assessment paid within thirty days of the passage of the assessment ordinance. The increase shall affect all districts instituted after the passage of the ordinance codified in this section.

B. Foreclosure and enforcement. The city may proceed to foreclose or enforce any lien to which it shall be entitled, pursuant to the provisions of this chapter, at any time after sixty days from the date of entry of the assessment in the unbonded lien docket, as provided by ORS 223.505 to 223.650, inclusive, or any other method provided by law.

C. Redemption.

1. Redemption shall be made pursuant to ORS 223.565;

2. In the event of sale to one other than the owner or legal representative, the city recorder-treasurer shall deposit the sales price in an interest-bearing escrow account during the period of redemption;

3. If owner shall redeem pursuant to ORS 223.565, the city recorder-treasurer shall, within ten days of the date of receipt of the redemption funds, pay to purchaser the purchase price plus all interest earned on the escrow account.

D. Reimbursement of Maintenance and Repair Expenses. If purchaser has expended funds to improve or maintain the premises and has receipts therefor, the city recorder-treasurer shall also pay purchaser the amount of the receipts for maintenance and repair of the premises up to but not exceeding one-half of the penalty provided for in ORS 223.565(1), (3). (Ord. 504 §1, 1985: Ord. 401 §1, 1980: Ord. 310 §10, 1971)

3.04.120 Parking improvements. The procedure for establishing motor vehicle parking districts provided in ORS 223.805 to 223.845 shall be the same as for other improvement districts. (Ord. 310 §11, 1971)

3.04.130 Reassessments. The provisions of ORS 223.405 to 223.485 concerning reassessments after assessments are set aside for any reason, or when the courts refuse enforcement of such assessments, or when the city council is in doubt as to the validity of such assessments, are adopted and made a part of this chapter. (Ord. 310 §12, 1971)

40

3.04.140--3.04.190

3.04.140 Rebonding. The provisions of ORS 223.715 to 223.750 concerning rebonding of bonded assessments which have not been fully paid, are adopted and made a part of this chapter. The applicable interest rate for ORS 223.715 shall be seven percent. (Ord. 310 §13, 1971)

3.04.150 Reinstatement. The provisions of ORS 223.755 concerning reinstatement of delinquent liens before the property affected has been sold are adopted and made a part of this chapter. (Ord. 310 §14, 1971)

3.04.160 Miscellaneous provisions. The provisions of ORS 223.750 and ORS 223.765 concerning acceptance of homeowner's loan corporations bonds and municipal bonds as payments for assessment liens, and of ORS 223.770

concerning assessment of public property benefited by improvements, and of ORS 223.880 concerning the inclusion of public roads in sidewalk improvement districts are adopted and made a part of this chapter. (Ord. 310 §15, 1971)

3.04.170 Abandonment of proceedings. The city council shall have full power and authority to abandon and rescind any proceedings for improvements undertaken under this chapter at any time. If liens have been assessed upon any property under this procedure, they may be canceled, and any payments made thereon may be refunded to the payer, his assigns, or legal representatives. (Ord. 310 §16, 1971)

3.04.180 Curative provision. No improvement assessment shall be invalid by reason of a failure to give, in any report, on the proposed assessment, in the assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot or other parcel of land, or part thereof, or the name of any person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings specified in this chapter, unless it appears that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the city council shall have power and authority to remedy and correct all such matters by suitable action and proceedings. (Ord. 310 §17, 1971)

3.04.190 Data proceeding and tax lot number. A. The city recorder-treasurer is authorized to use data processing forms and print out registers in lieu of an unbonded lien docket and a bonded lien docket provided the essential required information is recorded and maintained.

B. When permitted by state law, the use of the county assessor's tax lot number may be used for descriptions in lieu of using metes and bounds to describe a parcel of land not in a subdivision. (Ord. 310 §18, 1971)

41 (Scappoose 8/99)