

ORDINANCE 2018-34

AN ORDINANCE RELATING TO LOCAL IMPROVEMENT DISTRICTS, REPEALING AND REPLACING MUNICIPAL CODE CHAPTER 2.06, "LOCAL IMPROVEMENT DISTRICTS"

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Chapter 2.06, Local Improvement Districts is hereby repealed.

Section 2. Municipal Code Chapter 2.06 as fully set out in Exhibit A to this Ordinance, which is attached and incorporated as part of this ordinance, is hereby enacted.

Section 3. No other provision in the Municipal Code is amended by this ordinance.

PASSED by the City Council this 3rd day of December, 2018

APPROVED by the Mayor this 3rd day of December, 2018

EFFECTIVE this 13th day of December, 2018



Mayor

ATTEST:



City Recorder

**ORDINANCE 2018-34
EXHIBIT A**

Chapter 2.06 - LOCAL IMPROVEMENT DISTRICTS

Section 2.06.010 - Short title.

This Chapter shall be known as the "Local Improvement District Chapter" of the City.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.020 - Definitions.

- 1) *Local improvement.* Any local improvement, public improvement, or capital construction project or part thereof, described in the City Charter or in Oregon statute, or any other improvement for which an assessment may be made on the property that has been specially benefitted from the local improvement.
- 2) *Lot.* Lot, block, or parcel of land.
- 3) *Owner.* As used herein, the owner of the title to real property, or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the Office of the County Assessor.
- 4) *Property benefitted.* All property specifically benefitted by the improvement or any part thereof, 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 benefitted therefrom.
- 5) *Property description.* Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks, and addition names, or by reference to the book and page or microfilm number of any public record of Benton 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, or by any method of description authorized in ORS 223. Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment for a local improvement, foreclosure, and sale of delinquent assessments, and in any other proceeding related to a special assessment district including foreclosure and a 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 of Oregon.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.030 Initiating improvements.

- 1) When the Council considers, by its own initiation or by staff's recommendation, that it is necessary to require improvements to a street, sewer, water line, traffic signal, sidewalk, parking, curbing, storm water, or other local improvement and that the required improvements shall be paid for in whole or in part by special assessment according to special and peculiar benefits conferred as that term is used in ORS 223, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer to make a survey of the improvement and file a written report in accordance with section 2.06.040 and the Finance Department to prepare and file with the Council a financial investigation report in accordance with section 2.06.050 with the City Council; or

2) When owners of two-thirds of the property that will benefit by improvements defined in subsection (1) request by written petition that the Council initiate an improvement, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer to make a survey of the improvement and file a written report in accordance with section 2.06.040 and the Finance Department to prepare and file with the Council a financial investigation report in accordance with section 2.06.050 with the City Council.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.040 Engineer's report.

Unless the Council directs otherwise, the Engineer's report shall contain the following:

- 1) A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for payment of the cost.
- 2) A general description of the scope of the improvement to be completed.
- 3) A statement regarding the project's conformance to the City's Comprehensive Plan;
- 4) An estimate of the probable cost of the improvement, including engineering, legal, and administrative costs.
- 5) A recommendation concerning the method of assessment to be used to arrive at a fair apportionment of the whole or a portion of the cost of the improvement to benefited properties
- 6) An estimate of the unit cost of the improvement to the benefited properties per the assessment methodology.
- 7) A description of each lot, parcel of land, or portion of land to be benefited with names of the record owners and, when readily available, names of contract purchasers as shown on books and records of the County Tax Department. To describe each lot or parcel of land under provisions of this section, it shall be sufficient to use the tax account number or the map and tax lot numbers assigned to the property by the County Tax Department.
- 8) Information regarding feedback from property owners within the proposed local improvement district regarding the proposed improvements and the local improvement district methodology.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.050 Financial investigation report.

Where the City will provide Bancroft bonding or some other method of project financing, in whole or in part, and unless the Council directs otherwise, the Finance Director will prepare a financial investigation report. The report will contain the following:

- (1) Assessed valuation of properties within the local improvement district boundary prior to improvement;
- (2) Estimated assessed value of land once it has been improved and is ready for development;
- (3) Number of vacant lots or description of lands in area to be improved;
- (4) Number of similar lots held by the City through foreclosure;
- (5) Delinquency rate of assessments and taxes in the area;
- (6) Real estate value trends in the area;
- (7) Status of municipal debt and potential source(s) for financing this improvement;
- (8) Costs of financing;
- (9) Estimated debt to value ratios for each lot after the City-financed improvements are completed.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.060 Action on Engineer's report and financial investigation report.

After the Engineer's report and financial investigation report are filed with the City Council, the Council may by resolution approve the reports, modify the reports and approve them as modified, require the City Engineer or Finance Director to supply additional or different information for the improvement, or abandon the improvement.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.070 Emergencies.

Except in the case of street improvements, in the event the Council declares by unanimous vote that an emergency exists and that an improvement is essential to the welfare of the City, the procedure described in Sections 2.06.030 to 2.06.060 shall be followed, except that the Council may then declare its intention to initiate the improvement at any time and the Engineer's report shall be completed and construction work shall commence as soon as is reasonably possible.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.080 Direction to City Manager

The Council may direct the City Manager to take all actions necessary to construct the improvements. If part of the improvement work is to be done under contract bids, the City shall proceed in accordance with procedures of state law for public contracting.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.090 Resolution and notice of hearing.

After the Council has approved the Engineer's report and financial investigation report as submitted or as modified, the Council shall declare by resolution that it intends to make the improvement. The City Recorder shall forthwith give notice of the proposed improvement by posting the notice in the City Hall and by sending a copy of the notice by certified mail, addressed to the last known address of the person currently assessed for the properties to be benefited as shown by the records of the County Assessor, that a hearing will be held to hear objections, if any, to the proposed improvement.

The notice must be mailed and posted at least 10 days prior to the hearing date. The notice shall contain the following information and such other information that may be necessary to explain the improvement and the procedure:

- (1) The Engineer's Report;
- (2) The financial investigation report;
- (3) The intent to improve;
- (4) Date, time, and place of the hearing;
- (5) Right to present objections or support to the project at the hearing or in writing prior to the hearing.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.100. Public Hearings for Improvements other than Street Improvements.

Council shall hold a public hearing and consider the objections and remonstrances, if any, at the time and place specified in the notice.

- 1) The Council may approve, deny or modify the order to carry out the planned improvement subject to the adoption of a resolution as required by Section 2.06.090.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.110 Public Hearings for Street Improvements.

This process is limited to street improvements, or the portion of a project that is for street improvements. Council shall hold a public hearing and consider the objections and remonstrances, if any, at the time and place specified in the notice.

- 1) If remonstrances are received from the owners of less than two-thirds of the property benefited by the street improvement, the Council may approve, deny or modify the order to carry out the planned improvements, subject to the adoption of a resolution as required by Section 2.06.090.
- 2) If the owners of two-thirds or more of the benefited property affected by the street improvement remonstrate or object, the motion or petition for the street improvement will be suspended, and the Council shall take no further action on the street improvement for six months.
- 3) During this six-month period, City Staff may continue to amend, revise or refine the street improvement proposal and may consider any reasonable proposal provided by those property owners specially benefited by the street improvement.
- 4) After six months, City staff shall reevaluate the need for the street improvement, the cost of the street improvement and evaluate any suggestions and proposals to revise or reconsider the street improvement presented by those persons who objected or remonstrated.
- 5) After completing the reevaluation, City staff shall then prepare a report with a brief and summary listing of all proposals to revise or reconsider the street improvement, and City's staff's professional summary response to those proposals. This summary report shall be presented to the City Council at a public hearing held after at least 10 days' notice to the owners of property within the proposed district.
- 6) The Council shall hear the report, any continuing remonstrances and objections to the street improvement, and may approve, deny, or modify the order to carry out the planned improvements, subject to the adoption of a resolution as required by Section 2.06.090.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.120 Assessment method and alternative methods of financing.

- 1) The Council, in adopting a method of assessing the cost of the improvement, may:
 - (a) Use any just and reasonable method to determine the extent of an improvement district consistent with the benefits derived.
 - (b) Use any just and reasonable method to apportion the sum to be assessed among the benefited properties.
 - (c) Authorize payment by the City of all or part of the cost of an improvement when in the opinion of the Council circumstances warrant such payment.

- 2) If some lots in a subdivision are of questionable marketability, the City may require security from the owner prior to award of bids or project construction. Such security may be, but is not limited to, a bond or deposit of collateral.
- 3) The Council may elect to provide Bancroft bonding to all or any part of the improvement project. The balance of the project not Bancrofted must be secured to the City in a form acceptable to the City Finance Director prior to award of bids or project construction.
- 4) Nothing contained in this section shall preclude the Council from using other means of financing improvements, including federal and state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or other legal means of financing. If other means of financing are used, the Council may levy special assessments according to benefits derived to cover any remaining cost.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.130 Assessment ordinance.

- 1) After the work is done and the final improvement costs have been determined, the Council shall decide whether the benefited property shall bear all or a portion of the cost. The City Recorder or other persons designated by the Council shall prepare the proposed assessment for each lot within the assessment district and file the assessments in the City Recorder's office.
- 2) Notice of the proposed assessment shall be mailed to the owner of each lot proposed to be assessed at the address shown on the Benton County Tax Assessor's roll. The notice shall state the amount of assessment proposed on the property and fix a date for a public hearing.
- 3) At the hearing, the Council shall:
 - (a) Consider objections and may adopt, correct, modify, or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement.
 - (b) By ordinance, allocate the assessment in the manner deemed by the Council to be most equitable.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.140 Notice of assessment.

- 1) Within 10 days after the ordinance levying assessments has been passed, the City Recorder shall send a notice of assessment to each owner of assessed property by registered or certified mail.
- 2) The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment, and the effective date of the assessment ordinance, and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application within 10 days to pay the assessment in 120 equal installments or pays the assessment in full within 30 days after the effective date of the assessment ordinance.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.150 Lien record and foreclosure proceedings.

- 1) After the assessment ordinance is adopted, the City Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land or portion of land, a description of the improvement, names of property owners, and the effective date of the assessment ordinance. On entry

into the lien docket the amounts shall become liens and charges on the lots, parcels of land or portions of land that have been assessed for improvement.

- 2) Assessment liens of the City shall be superior and prior to all other liens or encumbrances on property insofar as state law permits.
- 3) Thirty days after the date of the assessment ordinance, interest shall be charged at a rate to be determined by the Council, and the City may foreclose or enforce collection of assessment liens in the manner provided by state law.
- 4) Assessment liens that have been Bancrofted in accordance with Oregon Bancroft Bonding Act and become one year delinquent are subject to foreclosure and penalty and interest charges, as prescribed in Oregon Revised Statutes.
- 5) The City may enter a bid on property being offered at a foreclosure sale. The City bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.160 Error in assessment calculation.

Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error. If there has been an error, the recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.170 Supplemental assessments.

If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvement, the Council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The Council shall set a time for hearing objections to the supplemental assessment and direct the City Recorder to provide notice as required in this Chapter. After the hearing, the Council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens as provided by this Chapter. Notice of the supplemental assessment shall be mailed, and collection of the assessment shall be made in accordance with notice and collection provisions of this Chapter or state law.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.180 Rebates.

On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the Council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid or that person's legal representative shall be entitled to payment of the rebate credit.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.190 Remedies.

Subject to curative provisions of Section 2.06.210 and rights of the City to reassess as provided in Section 2.06.220, proceedings for writs of review and other appropriate equitable or legal relief may be filed as provided by state law.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.200 Abandonment of proceedings.

The Council may abandon proceedings for improvements made under this Chapter at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.210 Curative provisions.

- 1) An improvement assessment shall not be rendered invalid by reason of:
 - (a) Failure of the Engineer's report to contain all information required by Section 2.06.040.
 - (b) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket, or notices required to be published and mailed.
 - (c) Failure to list the name of or mail notice to an owner of property as required by this chapter.
 - (d) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.
- 2) The Council shall have authority to remedy and correct all matters by suitable action and proceedings.

(Ord. 2018-34 § 2, 12/3/18)

Section 2.06.220 Reassessment.

When an assessment, supplemental assessment, or reassessment for an improvement made by the City has been set aside, annulled, declared, or rendered void, or its enforcement restrained by a court of this state or by a federal court having jurisdiction, or when the Council doubts the validity of the assessment, supplemental assessment, reassessment, or any part of it, the Council may make a reassessment in the manner provided by state law.

(Ord. 2018-34 § 2, 12/3/18)