

TITLE 8
CHAPTER 1

LOCAL IMPROVEMENTS

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8-1-1: INITIATION PROCEDURE:

8-1-1-1: DEFINITIONS: As used in this Chapter, except where the context clearly indicates a different meaning, the following words and phrases shall have the meanings ascribed to them by this subsection:

CITY ENGINEER	The person designated by the City Manager to perform the functions described.
CITY RECORDER	The person designated by the City Manager to perform the functions described.
LOCAL IMPROVEMENT	Any project or service or part thereof undertaken by the City where all or part of the costs are borne by local assessments levied against lot(s) which provides a special benefit only to specific lot(s) or rectifies a problem caused by specific lot(s). Such local improvements may include, but are not limited to, a street, sidewalk, street light, underground utility, sanitary or storm sewerage facility, water utility facility, off-street motor vehicle parking facility, flood control facility, park, playground or neighborhood recreation facility.
LOCAL IMPROVEMENT DISTRICT	The property which is to be assessed for the cost of a local improvement and the property on which the local improvement is located.
LOT	Lot, block or parcel of land.
OWNER	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.

8-1-1-2: INITIATION OF LOCAL IMPROVEMENTS; RESOLUTION:

- A. Whenever the City Council, in its discretion, shall deem it necessary to make any local improvement to be paid for in whole or in part by special assessment according to benefits conferred, or whenever the owners of one-half (1/2) of the property to benefit specifically from the local improvement shall, by written petition, request the Council to make a local improvement, the Council shall direct the City Engineer to prepare and submit to the Council a report containing the following information and whatever additional information the Council requires:
1. A map showing the general nature, location, and extent of the proposed local improvement and the contemplated local improvement district.
 2. A list of all the lot(s) in the proposed local improvement district and lot(s) owners.
 3. A proposal of one or more methodologies for assessing the costs of the proposed local improvement to the specially benefited property.
 4. An estimate of the total cost of the proposed improvement with a breakdown showing the estimated amount and its percentage of the total estimate to be borne by the specially benefited property, by the City and by others.
- B. After considering the report furnished under A above, the Council may:
1. Direct that a public hearing be held on the proposed project consistent with the City Engineer's report and direct that notice of the hearing be given as provided in 8-1-1-3;
 2. Modify the City Engineer's report and then direct that a public hearing be held on the proposed project consistent with the City Engineer's report as modified and direct that notice of the hearing be given as provided in 8-1-1-3;
 3. Require additional information about the proposed improvement; or
 4. Decide not to make the improvement

8-1-1-3: NOTICE OF HEARING:

- A. When directed by the City Council the City Recorder shall cause notice of the proposed improvement and of the public hearing to be given by one publication not less than ten (10) days prior to the public hearing in a newspaper of general circulation within the City and by mailing copies of the notice by first class , postage pre-paid mail to the owner of each lot affected by the proposed improvement.
- B. The notice shall contain:
1. A general description of the proposed local improvement and the property to be specifically benefited thereby. The description of property need not be by metes and bounds but shall be such that an average person can determine from it the general location of the property.
 2. An estimate of the total cost of the improvement, the portion anticipated to be paid for by special assessments, and the methodology and alternate methodologies, if any, proposed for assessing the costs to the specially benefited property.
 3. The time and place of the public hearing.
 4. A statement of a place where additional information concerning the improvement is available to the public.
 5. Any other information the Council may direct to be included.

8-1-1-4: HEARING:

- A. At the time of the public hearing, the City Council shall hear and consider testimony, both oral and written, on the proposed local improvement and may continue the hearing as it deems necessary. If the matter is heard by a City Council designee, the designee shall prepare a written report of the

hearing and make recommendations to the City Council concerning the proposed local improvement. After such hearing or after receiving the designee's report the Council may, in its discretion, order the local improvement to be made. If the Council elects to order such improvement, it shall, within ninety (90) days after the date of the hearing, provide by resolution for the establishment of the local improvement district, and for the methodology to be used when assessing the costs to the specially benefited property.

- B. Notwithstanding the fact that the proposed improvement was petitioned for by one-half (1/2) of the benefited property owners, the Council may refuse to proceed with the improvement if it finds the proposed improvement to be untimely or not in the best interests of the City.
- C. At its public hearing, or after receiving its designee's report, the Council may direct a modification of the proposed local improvement by revising the scope of the improvement, by reducing or enlarging the local improvement district which it deems will be benefited by the improvement, or making such other modifications in the proceedings, including the methodology for assessing the costs, as it finds reasonable. If the Council modifies the scope of the proposed improvement so that assessment is likely to be increased substantially upon one or more lots, or if the Council enlarges the local improvement district, or if the Council causes a substantial change in any of the particulars contained in the improvement resolution, it shall re-notify the owners of the affected lots of the a public hearing on the revised proposed local improvement district. Such re-notification shall comply with 8-1-1-3-B. However, no new publication shall be required.

8-1-1-5: ALTERNATIVE PROCEDURE FOR INITIATING LOCAL IMPROVEMENTS: Whenever all of the owners of any property to be benefited and assessed for any local improvement have signed a petition directed and presented to the City Council requesting such local improvement, the Council may initiate and construct such local improvement without publishing or mailing notice to the owners of the affected property and without holding a public hearing regarding the proposed local improvement.

8-1-1-6: PUBLIC TESTIMONY CONCERNING COUNCIL DESIGNEE'S REPORT: Any time the Council receives a written report from its designee under the provisions of this chapter, no additional public testimony shall be received on the matter unless the Council determines to take additional testimony before acting on the report.

8-1-1-7: MANNER OF DOING WORK: Local improvement may be made in whole or in part by the City, by another governmental agency, by contract, or by any combination thereof.

8-1-1-8: CONSTRUCTION OF IMPROVEMENT; BIDS:

5. The resolution establishing the local improvement district

- 1. May direct necessary property interests be acquired;
- 2. Shall direct the improvement be made in accordance with the terms of said resolution, and
- 3. Determine if the work is to be performed by the City or another governmental agency.

If any part of the work of the improvement is to be done under contract bids, the City Engineer shall cause plans and specifications to be prepared and call for bids as required by Florence city Code Chapter 1-8 regarding public contracting or any successor provision of this Code. (Ord 548, 1974 amended by Ordinance No. 4, Series 1989).

- B. Contracts for all or part of the work of the local improvement may be let as required by Florence City Code Chapter 1-8; provided, the City Council may order such work performed or materials purchased without a call for bids or letting of contracts where, in the opinion of the Council, it is to the best interest of the public to do so. The City shall have the right to reject any or all bids. If bids are rejected, the Council may direct the City Engineer to call for new bids or direct the work to be performed by City forces. (Amended by Ordinance No. 4, Series 1989)
- C. If the Council finds upon opening bids for the work of such improvement, that the bid in the best interest of the City is substantially in excess of the City Engineer's estimate, it may, in its discretion, provide for holding a special hearing to consider objections to proceeding with the improvement on

the basis of such bid.

8-1-1-9: COSTS AND EXPENSES: The costs and expenses of local improvements which may be assessed against the property specially benefited by the improvement shall include the costs of construction and installation of the improvement; advertising, legal, administrative, engineering and assessment costs; financing costs, including interest charges; the costs of any necessary property, right of way or easement acquisition and condemnation proceedings; and any other necessary expenses.

8-1-1-10: METHOD OF ASSESSMENT; ALTERNATIVE METHODS OF FINANCING:

- A. The Council, in adopting a method of assessment of the costs of any local improvement, may:
 - 1. Use any just and reasonable method of determining the extent of the local improvement district consistent with the benefits derived.
 - 2. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.
 - 3. Authorize payment by the City of all or any part of the costs of a local improvement when, in the opinion of the Council, the topographical or physical conditions, or unusual or excess public travel or use, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the local improvement.
- B. Nothing contained in this Section shall preclude the Council from using any other available means of financing local improvements, including Federal or State grants-in-aid, water or sewer fees or charges, revenue or general obligation bonds, or any other legal means of financing. If such other means of financing local improvements are used, the Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the local improvement.

8-1-1-11: ASSESSMENT PROCEDURE:

- A. When the estimated cost of an authorized local improvement has been ascertained on the basis of the City Engineer's estimate of costs, the award of a contract or any other basis acceptable to the Council, or after the work has been completed and the actual cost thereof has been determined, the City Recorder, shall prepare the proposed assessment to the respective lots within the local improvement district, and shall send by registered or certified mail notice of the proposed assessments to the owners of the specially benefited lots and of a hearing before the City Council or its designee upon the proposed assessments at which time the Council or its designee shall consider any written or oral objections to the proposed assessments. At the time this notice is sent to affected lot owners, the City Recorder shall also submit to the Council and its designee a report containing:
 - 1. The actual or estimated total cost of the local improvement and the allocation of the cost between the specially benefited lots, the City and any others.
 - 2. The proposed assessment to each specially benefited lot within the local improvement district, the name of the owner of each lot and a legal description of each lot to be assessed.
 - 3. Any other information that the City Recorder deems relevant or that the City Council has requested.
- B. The Council or its designee shall hold the public hearing on the proposed assessments to consider objections thereto. Following the hearing, if the matter has been heard by the Council's designee, the designee shall prepare for the Council a written report of the hearing and make recommendations concerning the proposed assessments. Following receipt of the designee's report or following the Council hearing, the Council shall determine the amount of assessment to be charged against each lot within the local improvement district according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments and impose a lien against each lot if the assessment is not paid as provided in 8-1-1-13. If the Council or its designee determines that a proposed assessment should be increased, a new notice of the increased proposed

assessment as required in A above and an opportunity for comment thereon shall be given the owner of each affected lot.

- C. Within ten (10) days after the effective date of the ordinance levying the assessments, the City Recorder shall send, by registered or certified mail to the owner of each assessed lot, a notice containing the following information:
1. The date of the ordinance levying the assessment, the name of the owner of the property assessed, the amount of the specific assessment and a description of the property assessed.
 2. A statement that application may be filed to pay the assessment in installments in accordance with the provisions of this Section.
 3. A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within thirty (30) days of the date of the letter and, if unpaid on that date, will accrue interest and subject the property to foreclosure.

8-1-1-13: LIEN RECORDS AND FORECLOSURE PROCEEDINGS: After passage of the assessment ordinance by the Council, the City Recorder shall enter in the City lien docket a statement of the amounts assessed upon each particular lot or portion thereof, together with a description of the improvement, the names of the owners and the date of the assessment ordinances. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land proportions thereof, which have been assessed for such improvement. All assessment liens of the City shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the State of Oregon permit. Interest shall be charged at a rate to be determined by the Council. The Council, in determining such rate, may consider as one factor the net effective interest rate that the City has paid for warrants on the particular improvement project. Interest shall accrue from the date of passage of the assessment ordinance unless the entire assessment principal amount is paid within thirty (30) days from the date of the letter notifying the owner of the ordinance levying the assessment, in which case interest will be waived; and after expiration of thirty (30) days from said date the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the State of Oregon; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property. (Ord. 648, 7-28-81)

8-1-1-14: ERRORS IN ASSESSMENT CALCULATIONS: Claimed errors in the calculation of assessments shall be brought to the attention of the City Recorder, who shall determine whether there has been an error in fact. If the City Recorder finds that there has been an error in fact, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct such error. Upon enactment of any such amendment, the City Recorder shall cause the necessary correction to be made in the City lien docket and shall cause a corrected notice of assessment to be sent by registered or certified mail. (Ord. 548, 1974)

8-1-1-15: INSTALLMENT PAYMENT OF ASSESSMENTS:

- A. The Bancroft Bonding Act shall apply to assessments levied in accordance with this Section except as provided by this Section. Unless otherwise provided in a particular assessment ordinance, the owner of any property assessed for a local improvement in accordance with this Section in the sum of one hundred dollars (\$100.00) or more, at any time within thirty (30) days after notice of assessment is first mailed may file with the City Recorder a written application to pay the whole of the assessment in ten (20) semi-annual installments constituting a five (10) year payment period.
- B. Interest shall be included on installments authorized in A above as follows: From the date of passage of the assessment ordinance by the Council, interest shall be charged at the rate determined by the Council for that particular improvement project as determined under Section 13 of this Chapter. Thereafter at the time of the sale of improvement bonds the Council shall set the maximum interest rate the City will pay on the bonds and after bond sale the assessment shall bear interest from the effective date of sale at the rate of not more than two percent (2%) more than the net effective interest rate to be paid by the City for the bonds for the particular sale. (amended by Ord 3, Series 1996 2-21-96)
- C. The provisions of this Section shall apply to all existing districts upon which the final assessment has

not yet been made (Improvement Projects No. 1995-1) and the bonds have not yet been sold (above project) and shall apply to all future local improvement.

8-1-1-16: FILING OF ORDINANCES: The City Recorder shall file copies of the resolution establishing a local improvement district and the assessment ordinance with the keeper of the official records for Lane County; provided, however, that failure to file such information shall not invalidate or affect any proceedings in connection with the local improvement district and shall not impose any liability on the City, the City Recorder or any official, officer or employee of the City.

8-1-1-17: DEFICIT ASSESSMENTS: If the initial assessment has been made on the basis of estimated cost and upon the completion of the improvement, the actual cost is found to be greater than the estimated cost, the Council may make a deficit or supplemental assessment for the additional cost. Proposed assessments upon the respective lots within the local improvement district for the proportionate share of the deficit shall be made, notices sent, a public hearing held and opportunity for objections considered, and determination of the assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment; and the deficit or supplemental assessment spread by ordinance. The deficit assessments shall be entered in the City lien docket, notices published and mailed and the collection of the assessment made in accordance with the provisions of this Section relating to the original assessment.

8-1-1-18: REBATES AND CREDITS: If assessments have been made on the basis of estimated cost, and upon completion of the improvement project the cost is found to be less than the estimated cost, the Council shall ascertain and declare the same by ordinance, and when so declared, the excess amounts shall be distributed as follows:

- A. For assessment account paid in full, the proportionate amount of the excess shall be paid to the owner of the lot originally assessed.
- B. For unpaid assessment accounts, the proportionate amount of the excess shall be applied as a credit against the account. The proportionate amount shall be applied first to accrued interest and then the remainder to unpaid principal. If that application results in satisfying the debt, any unused portion of the proportionate amount shall be paid to the owner of the lot originally assessed. The application of a proportionate amount shall not correct any delinquency.

8-1-1-19: ABANDONMENT OF PROCEEDINGS: The Council shall have full power and authority to abandon and rescind proceedings for local improvements made under this Section at any time prior to the final completion of such improvements. If liens have been assessed upon any property under such procedure, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or successors.

8-1-1-20: CURATIVE PROVISIONS: No improvement assessment shall be rendered invalid by reason of a failure to have all of the information required to be in any City Engineer's or City Recorder's report, the improvement resolution or ordinance, the assessment ordinance, the lien docket or notices required to be published, mailed or posted; nor by the failure to list the name of, or mail notice to, the owner of any property as required by this Section; nor by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

8-1-1-21: REASSESSMENTS:

- A. Whenever all or part of any assessment for any local improvement has been or shall be declared void or set aside for any reason or its enforcement refused by any court having jurisdiction thereof, or whenever the Council is in doubt as to the validity of all or any part of such assessment, the Council may make a new assessment or reassessment in the manner provided by the laws of the State of Oregon.
- B. For purposes of this Section, the term "assessment" includes deficit or supplemental assessments and reassessments.

8-1-1-22: REMEDIES: Subject to the curative provisions of Section 8-1-1-20 hereof, all actions of the Council taken pursuant to this Section 8-1-1 are solely and exclusively by writ of review in accordance with the procedures in ORS 34.010 to 34.100. Review of an ordinance levying any assessment may be commenced only by a property owner who has filed a written objection to the proposed assessment in accordance with Section 8-1-1-11 hereof.

8-1-1-23: SEGREGATION OF LIENS:

- A. Whenever the ownership of any portion of a lot less than the entire tract is transferred, any lien against said lot in favor of the City shall, upon request of the owner of the lot, shall be segregated as herein provided and not otherwise.
- B. Applications for the segregation of liens shall be made to the City Recorder describing the lot to be segregated and the names of the owners of the respective lots. A certificate of the County Assessor shall be furnished showing the assessed valuation of the various concerned as of January 1 of the year in which the segregation is requested, if available; if not available, as of January 1 of the preceding year.
- C. The City Recorder shall thereupon determine if the original assessment account is current. Only if the assessments against the lot are current, the City Recorder shall compute a segregation of the lien against each new lot upon the same basis as the same was originally computed and apportioned and reflect this segregation in the City lien docket; provided, however, that no segregation shall be made unless all parts of the original tract of land after the segregation have a true cash value as determined from the certificate of the assessor or sixty percent (60%) or more of the amount of the lien as to the various tracts concerned.

8-1-1-24: INTERPRETATION: The provisions of this Section 8-1-1 shall apply to all future local improvement districts and, to the extent further actions or proceedings may be required, to all existing districts. (Ord. 548, 1974)

Amended by Ordinance No. 8 Series 1995
Amended by Ordinance No. 3 Series 1996