

Chapter 7.04

CREATION OF LOCAL IMPROVEMENT DISTRICT

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7.04.010 Title.

This chapter shall be known as the "improvement district ordinance" of the city. The implementation of this title shall be pursuant to Resolution No. 1200 which shall be placed in the Municipal Code as Appendix VI. (Ord. 2721 §2(part), 1993; Ord. 2516 §1, 1984)

7.04.020 Definitions.

For the purposes of this chapter, the following words are defined as:

A. "Local improvement" means:

1. The broadening, graveling, paving or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade of or constructing of any street or alley, or acquisition of property therefor;

2. The construction or reconstruction of sidewalks, except that no objections or remonstrances shall be allowed as this is a decision to be based upon the public safety and welfare;
3. The installation of ornamental street lights;
4. The installation of underground wiring or related equipment and acquisition of property therefor;
5. The acquisition, reconstruction or repair of any street or alley improvement mentioned in this section;
6. The construction, reconstruction or repair of any sanitary or storm sewer or water main or portion of a water system or acquisition of property therefor, including potable water system;
7. The acquisition, establishment, construction or reconstruction of any off street motor parking facility;
8. The acquisition, construction, or reconstruction or repair of any flood control dike or dam;
9. The acquisition, construction, reconstruction, installation and equipping of a park, playground or neighborhood recreation facility;
10. Any other local improvement for which an assessment may be made on the property specially benefitted.

B. "Lot" means lot, block or parcel of land.

C. "Objection" means any written opposition to the formation of an improvement district, or the assessment therefor, filed timely with the recorder.

D. "Owner" means 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.

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

F. "Remonstrance" means the objection to the proposed improvement district or the assessment therefor made in person at the public hearing for the same. Petitions or documents bearing the

signature of real property owners within the district may be presented at the public hearing and considered by the council.

G. "Developers" means an individual, partnership, or corporation who develops real estate, one that improves and subdivides land and builds and sells houses thereon. (Ord. 2721 §2(part), 1993; Ord. 2516 §2, 1984)

7.04.030 Description of real property.

A. 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 giving the boundaries thereof by metes and bounds, or by reference to the book and page to 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 assessor of descriptions of real properties of the county, which record shall constitute a public record, or in such other manner as to cause the description to be capable of being made certain.

B. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section, thereof, or any distance, course, bearing or direction, may be employed in any such description of real property. (Ord. 2516 §3, 1984)

7.04.040 Effect of error in name of property owner or description of real property.

A. If the owner of any land is unknown such land may be assessed to "unknown owner" or "unknown owners." If the property is correctly described, no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner.

B. Where the name of the true owner, or the owner of record, of any parcel of real property is given, the assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description, a court of equity would hold it to be good and sufficient.

C. 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 special improvement district, foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing special assessments for special benefits to such property. (Ord. 2516 §4, 1984)

7.04.050 Preparation of plans and specifications.

Whenever the council shall determine, either after petition by property owners or on their own motion, to proceed to make an improvement to be paid for in whole or in part by the property benefitted, the council shall by motion, direct the manager to prepare a report with the following information and any other information requested by the council:

A. A description of the work to be done;

B. Preliminary plans and outline specifications for such improvement;

C. A description of the boundaries of the proposed improvement;

D. A just and reasonable method for apportioning the costs of the improvements to the properties benefitted;

E. A list of the properties benefitted by such improvement, including the name of the owner of each property benefitted, and the address of such owner; the assessed valuation of each property, adjusted standing assessments against any property proposed to be assessed by the improvement;

F. The estimated total cost of the improvement including all legal, engineering and administrative costs;

G. The proportionate cost of the improvement to be assessed to each benefitted property;

H. The portion of the cost of the improvement to be borne by any city funds, if any;

I. The city manager shall have a copy of such report filed in the office of the recorder when completed. (Ord. 2516 §5, 1984)

7.04.060 Method of assessing costs within district.

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

A. The use of any just and reasonable method of determining the extent of the district boundaries consistent with the benefits derived;

B. The use of any method of apportioning the sum to be assessed as is just and reasonable among the properties determined to be specifically benefitted;

C. Payment by the city of all or any part of the cost of any improvement when, in the opinion of the council, on account of topographical or physical conditions, unusual or excessive use by the general public, or other character of the 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.

D. Nothing contained in this chapter shall preclude the council from using other available means of financing improvement, including federal or state grants-in-aid, sewer and water service, or other types of services or charges, revenue bonds, general obligation bonds, or other legal means of finance. In the event any other means of finance are used, the council may, in its discretion, levy special assessments under this chapter according to benefits to cover any part of the costs of the improvement not covered by such means. (Ord. 2721 §2(part), 1993; Ord. 2516 §6, 1984)

7.04.070 Resolution proposing to create improvement district--Contents.

A. After the city manager's report has been filed with the recorder and after the council has examined such report and found the same to be satisfactory, and the estimated cost and apportionment thereof to be reasonable and just, and after having found the boundaries of such improvement district to be properly determined, the council, by resolution, may propose to make such an improvement, and to create a local improvement district.

B. The resolution shall state the boundaries of such district, the proposed apportionment of the costs of the improvement among the property owners; the portion of the cost, if any, which the city shall pay; and that such portion of the costs which are assessed to the property owners shall be a charge and lien upon the properties benefited.

C. The resolution shall also provide for at least ten days' notice to owners of the property within the proposed district which notice shall be pursuant to Section [7.04.080](#) of this chapter. (Ord. 2516 §7, 1984)

7.04.080 Ordinance creating improvement district--Notice of hearing or publication of notice.

A. After a public hearing at which not more than two-thirds of the owners of the property in the district object to or remonstrate against the improvement district the council may enact an ordinance creating the improvement district which substantially conforms to the plans and specifications previously adopted.

B. The notice of the public hearing shall state the time and place the council will hear and consider objections or remonstrances to the proposed improvement by any parties aggrieved thereby. It shall state the council has proposed the improvement by resolution and contain substantially the following: unless the owners of two-thirds (2/3) of the property within said local improvement district make and file with the City Recorder a written objection against such proposed improvement within (10) days from the date of first publication of this notice or remonstrance at the hearing, the Council shall be

deemed to have acquired jurisdiction to order the improvement to conform substantially in all particulars to the plans and specifications previously adopted. Any such objection or remonstrance shall be made timely and state the reason therefor or it shall not be considered by the Council.

C. The notice of the proposed ordinance to create an improvement district shall be published twice, once per week for two consecutive weeks, for a total of two publications, in a newspaper of general circulation designated as the legal publication by the council, the first such publication being not less than ten days prior to the date set for the public hearing. The recorder shall mail to or personally serve upon the owner of each lot proposed to be assessed, a copy of the notice at least ten days prior to the date of the hearing.

D. Whenever the notice of the hearing is proper and duly given, the council may at the public hearing, held on the date published, continue the hearing to another date and place by announcing the time and place of the subsequent hearing and without further newspaper or mailed notice. (Ord. 2516 §8, 1984)

7.04.090 Prevention of improvement by remonstrances or at public hearing.

Unless two-thirds or more of the real property owners within the district file written objections within ten days of the public notice, or two-thirds or more of the real property owners, or a certification of both, remonstrate at the public hearing, the council may approve the formation of and assessments for the improvement.

B. In the event two-thirds or more of the real property owners within the improvement district make objections or remonstrate, or a combination of both, such acts shall constitute a bar against further proceedings for a period of six months unless one-half or more of the real property owners thus affected propose such improvement district and shall subsequently petition therefor. (Ord. 2516 §9, 1984)

7.04.100 Ordinance to create local improvement district.

A. After the time for filing remonstrances has expired, if the local improvement district has not been objected to by the owners of two-thirds of the property benefited at the hearing, the council may, by ordinance, provide for the creation of the local improvement district. The ordinance shall describe the improvement to be made and the boundary of the district, and 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 law.

B. In creating the improvement district 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 council shall not consider written objections or remonstrances not made timely nor after the matter is once voted on and a determination is made by the council.

C. The ordinance shall also direct the manager to prepare proper detailed plans and specifications of the improvement and that when appropriate, the city invites bids for construction of the improvement. All bidders shall be required to submit a certified check, or a bid bond, in an amount equal to five percent of their bid, and the contractor to whom the award is made shall submit a performance bond in the amount of his bid at the time the contract is awarded. (Ord. 2516 §10, 1984)

7.04.110 General procedure for construction 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 construct the local improvements rather than private contractors.

B. In the event more than one local improvement district is advertised for bids at the same time, all local improvement districts shall be bid separately. The council shall have the authority, however, to accept the lowest aggregate bid for all of the local improvement districts bid at the same time, and they shall allocate the proper amount of the total to each district separately. The council may, in its discretion, reject any and all bids submitted if the aggregate of the bid exceeds the aggregate estimated cost of all of the districts, and the council shall not be required to accept any bid for any individual district, even though the same may comply with the requirements hereof when the aggregate bid fails to meet the requirements of other local improvements then bid; provided, however, if the improvement cost is less than five thousand dollars, the city may award the contract without bid. (Ord. 2516 §11, 1984)

7.04.120 Final assessment ordinance.

A. When the improvement has been completed, the recorder or other person designated by the council, shall prepare the proposed assessment to the respective lots within the assessment district and file it in the appropriate city office.

B. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed and shall be published not less than ten days prior to the public hearing for the assessment. The notice shall state the amounts of assessment and shall fix a date by which time objections shall be filed with the recorder and the time and place remonstrances may be heard. The objection or remonstrance shall state the grounds thereof. (Ord. 2516 §12, 1984)

7.04.130 Lien recording.

A. Within three business days after the council has approved the final assessment ordinance, the city recorder shall enter the assessments in the city 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 thereon insofar as the laws of the state allow.

B. After making such entry, the recorder shall publish a notice in a newspaper designated by the council for the publication thereof. This notice shall state that within ten days of the time of publication of this notice, owners of the assessed properties may file with the city recorder, on a form provided for that purpose, an application to pay the assessment in whole or in part on an installment basis. This notice shall also state that 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 lien docket.

C. The recorder shall also mail to the owners of the assessed property a notice containing the same information as the notice which is published in the newspaper. If the address of the owner is unknown to the recorder, the same requirements shall be met as described in Section [7.04.080](#) of this chapter. (Ord. 2724 §2, 1993; Ord. 2516 §13, 1984)

7.04.140 Assessment segregation.

A. Whenever property has been assessed in an entire tract and subsequently subdivided, any owner so desiring may make an application to the council for a segregation of the assessment and a determination of the amount due on each portion thereof.

B. The council shall thereupon cause an appraisal to be made by the city manager of the entire property as a whole, and also of the segregated portions.

C. If the council deems that such segregation can be made without prejudice to the city's security, it may order the assessment to be segregated and assessed against each portion of the divided property. In case the council shall determine that the city can not, without injury to its security, permit such segregation, it shall require payment of the entire amount as a whole before any portion of the tract is discharged from the lien of such assessment. (Ord. 2516 §14, 1984)

7.04.150 Interest foreclosure.

A. Interest shall be charged at the rate at which borrowed money is available to the city plus two percent for administration of the assessment receivables.

B. The interest shall be charged on the principal balance remaining in the city lien docket from date of such entry, or of such entry corrected pursuant to any provisions of this chapter except that no interest

shall be charged if the assessment is paid within thirty days of the passage of the final assessment ordinance.

C. The city may proceed to foreclose or enforce any lien pursuant to the provisions of this title, at any time after sixty days from the date of entry of the assessment in the lien docket, as provided by Oregon Revised Statutes Sections 223.505 through 223.590, or any other method provided by law. (Ord. 2721 §2(part), 1993; Ord. 2516 §15, 1984)

7.04.160 Parking improvements.

The procedure for establishing motor vehicle parking districts shall be the same as for other improvement districts. (Ord. 2516 §16, 1984)

7.04.170 Errors in assessment calculations.

A. Claimed errors in calculation of assessments shall be called to the attention of the city manager prior to any payment on account thereof.

B. The city manager shall check the calculation and report his findings to the council.

C. If an error has been made, the council shall amend the final assessment ordinance to correct the error.

D. Upon the enactment of such an amendment by the council, the recorder shall make the necessary correction in the lien docket and shall send to the owner a corrected notice of the assessment.

E. Notice of such amendment shall not be required if the amendment does not alter the liability of any real property owner in excess of ten percent, excluding the city. (Ord. 2516 §17, 1984)

7.04.180 Reassessments.

Reassessments of improvements shall follow the procedures provided in Oregon Revised Statutes. (Ord. 2516 §18, 1984)

7.04.190 Rebonding.

The provisions of Oregon Revised Statutes shall apply to rebonding of improvements. (Ord. 2516 §19, 1984)

7.04.200 Reinstatement.

The provisions of Oregon Revised Statutes concerning reinstatement of delinquent liens before the property affected has been sold, are adopted and made a part of this chapter. (Ord. 2516 §20, 1984)

7.04.210 Miscellaneous provisions.

The provisions of Oregon Revised Statutes Sections 223.760 and 223.765 concerning acceptance of homeowner's loan corporation bonds and municipal bonds as payments for assessment liens; of Oregon Revised Statutes Section 223.770 concerning assessment of public property benefitted by improvements; of Oregon Revised Statutes Section 223.880 concerning the inclusion of public roads in sidewalk improvement districts; and of Oregon Revised Statutes Section 287.502 concerning general obligation improvement warrants and debt limitations, are adopted by reference and made a part of this chapter. (Ord. 2542 §3, 1984; Ord. 2516 §21, 1984)

7.04.220 Abandonment of proceedings.

A. The council shall have full power and authority to abandon and rescind proceedings for improvements undertaken under this chapter at any time prior to the final consummation of such proceedings.

B. If liens have been assessed upon any property under this procedure, they shall be canceled, and any payments made thereon shall be refunded to the payor, his assigns or legal representatives. (Ord. 2516 §22, 1984)

7.04.230 Curative provision.

A. 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, jurisdiction 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.

B. The council shall have power and authority to remedy and correct all such matters by suitable action and proceedings. (Ord. 2516 §23, 1984)

7.04.240 Warrants.

Repealed by Ord. 2721. (Ord. 2516 §25, 1984)

7.04.250 Warrant interest rates.

A. All warrants issued under this chapter or prior local improvement district ordinances shall be considered "general obligation warrants" of the city and shall bear a rate of interest to be determined by the city and a local banking institution at the commencement of the project.

B. The interest rate shall not exceed the prime interest rate available at that lending institution nor the prime interest rate generally available at other lending institutions within the city.

C. Interest shall be paid upon redemption of the warrant.

D. The terms and conditions of the warrants shall be passed as provided by Oregon Revised Statutes Sections 287.502 to 287.510. (Ord. 2721 §2(part), 1993; Ord. 2509 §1, 1984)

7.04.260 Conditions precedent.

No local improvement district shall be created for the purpose of providing funding under this chapter unless each of the following conditions have been satisfied or otherwise complied with:

A. No local improvement district shall be formed to create new lots if the city council determines that the city, as a result of lien foreclosure or deed in lieu of foreclosure, owns lots which are similar in nature to the lots proposed to be created and/or improvements thereon financed by the new local improvement district. The city council shall not unreasonably restrict future development of property which will result in the creation of lots which are unique and by virtue of special characteristics are distinguishable from lots owned by the city.

B. No person shall be entitled to pay a lien in installments under this chapter if, at the time of the application for payment in installments, such person has a delinquent account with the city involving a lien for local improvements unless specifically approved by the city council. (Ord. 2721 §2(part), 1993; Ord. 2542 §2A, 1984)

7.04.270 Interest on delinquent installments.

In the event a person is more than ninety days delinquent in payment of any installment due on the applicant's lien, the city shall be entitled to charge interest on the delinquent payment amount at the rate of two percent above the interest rate in the final assessment ordinance or the interest rate then applicable to ninety-day treasury bills, whichever is greater. Such rates shall be determined quarterly by the finance director. (Ord. 2542 §2B, 1984)

7.04.280 New subdivisions.

Repealed by Ord. 2721. (Ord. 2542 §2C, 1984)

7.04.290 Delinquent taxes as default.

Taxes should be kept current by property owners on all property upon which there is an assessment lien. In the event property taxes are delinquent by two-thirds of a year or more on a parcel subject to an assessment lien, the assessment agreement shall be deemed to be in default and shall be subject

to foreclosure the same as if an assessment installment payment was not made. (Ord. 2721 §2(part), 1993; Ord. 2542 §2D, 1984)

7.04.300 Amount subject to installment payments.

Developers shall be required to deposit with the city in advance of construction, twenty-five percent of the cost of improvements which deposit shall be in the form of cash, securities or other mutually agreeable negotiable instrument if the developer desires to finance more than seventy-five percent of the cost of such improvement. In the event a developer chooses to deposit collateral and to finance one hundred percent of the improvement under this chapter the deposit shall be reduced annually in a pro rata share equal to the reduction of principal on the assessment balance. The terms of such collateral deposit shall provide that the city be entitled to use such collateral as an offset for the unpaid lien balance in connection with a foreclosure of such lien. Interest or dividends from collateral shall remain the property of the applicant and shall be distributed to the applicant at the option of the applicant. (Ord. 2721 §2(part), 1993; Ord. 2542 §2E, 1984)

7.04.310 Planning or zoning of properties subject to liens.

The city will not allow any building permit partition variance, conditional use permit or related action for any property upon which there is a delinquent assessment lien at the time of the requested city action. (Ord. 2721 §2(part), 1993; Ord. 2542 §2F, 1984)

The Cottage Grove Municipal Code is current through Ordinance 3174, passed July 10, 2023, and Resolution 2109, passed July 10, 2023.

Disclaimer: The City Recorder's office has the official version of the Cottage Grove Municipal Code. Users should contact the City Recorder's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.cottagegrove.org/>

City Telephone: (541) 942-5501

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