

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY COUNCIL

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RULES OF PROCEDURE

§ 30.01 MEETINGS.

(A) Regular meetings of the Council shall be held at 7:00 p.m. on the first and third Thursday of each month.

(B) A change of any one regular meeting date may be made by motion duly passed at a regular meeting.

(C) Recessed or adjourned meetings may be held at anytime as provided by motion duly passed at any stated meeting and special meetings may be held in accordance with provisions of the charter and the State Open Meeting Law.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

§ 30.02 QUORUM.

A majority of councilors shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in a manner provided by ordinance.

Cross-reference:

Quorum, see Charter Section 14

§ 30.03 MAYOR’S ATTENDANCE AND DUTIES.

The Mayor shall preside at all Council meetings to which he or she is in attendance. Except to break a tie, he or she shall not vote. He or she is to preserve order, enforce these rules and determine the order of business at Council meetings.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

§ 30.04 ORDER OF BUSINESS; AGENDA.

(A) The order of business on the agenda shall be proposed by the City Administrator and may be adjusted by the Mayor at the Mayor’s discretion.

(B) No item shall be placed on the agenda unless it is ready for Council action and/or consideration.

(C) At each regular meeting of the Council, the Mayor and each Council member may bring up items not on the agenda.

(D) (1) A group of relatively minor items, that should require no discussion but which must be approved by the Council, may be combined by the City Administrator under a “consent calendar” portion of the agenda.

(2) The entire consent calendar can be approved by one motion and vote. Upon the request of the Mayor or any Council member, any item on the consent calendar can be removed and considered as a separate agenda item.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

§ 30.05 ROLL CALL VOTING PROCEDURE.

Unless a written ballot vote is requested by the Mayor or a Council member, all votes of the Council shall be by roll call vote. When taking a roll call vote, the City Recorder shall call each Council member’s name at random and record the Council member’s vote in the minutes of the meeting. When a written ballot vote is requested, the City Recorder shall read into the record each Council member’s name and vote.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

§ 30.06 CONDUCT AT MEETINGS.

Unless otherwise stated in the City Charter or otherwise provided in the rules of procedure, the conduct of the meeting of the Council shall be governed by *Robert’s Rules of Order Newly Revised*.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

§ 30.07 ATTENDANCE; SENIORITY.

In the event neither the Mayor nor Council President is present at a meeting, the most senior, in

continuous service, Council member shall open the meeting, accept nominations for the temporary presiding officer and conduct the vote. The member elected as temporary presiding officer shall thereafter preside at that meeting until the arrival of the Mayor or Council President. The Council President or presiding officer, when conducting the meeting, shall be allowed to vote.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

§ 30.08 ABSTENTION FROM VOTING.

An abstention from voting shall not count as a vote for or against the motion, nor affect the power of the Council to act for lack of quorum.

(Ord. 680, passed 10-4-94; Am. Ord. 831, passed 11-4-98)

CHAPTER 31: CITY OFFICIALS

Section

31.01 Bonding

Cross-reference:

Nomination of city candidates, see § 35.02

§ 31.01 BONDING.

The City Recorder shall, before entering upon the duties of his or her office, execute a bond to the city in the penal sum of not less than \$25,000, conditioned upon the faithful performance of his or her duties, including the duties of all offices of which he or she is an ex officio incumbent. The bond shall be approved by City Council.

(Ord. 452, passed 6-1-72)

CHAPTER 32: COMMISSIONS AND COMMITTEES

Section

Planning Commission

- 32.01 Continuation
- 32.02 Membership and compensation
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PLANNING COMMISSION

§ 32.01 CONTINUATION.

There is continued the Planning Commission, hereinafter referred to as “the Commission,” for the city.
(Ord. 695, passed 9-19-86; Am. Ord. 751, passed 2-15-90)

§ 32.02 MEMBERSHIP AND COMPENSATION.

(A) The Commission shall consist of seven members appointed by the City Council.

(B) (1) No more than two voting members of the Commission may engage principally in buying, selling or developing real estate for profit.

(2) No more than two individuals shall be engaged in the same kind of occupation, business, trade or profession, and except for incumbents during present terms of office at the time this subchapter is enacted, not more than two members shall reside outside the city.

(C) Commission members shall receive no compensation.
(Ord. 695, passed 9-19-86; Am. Ord. 751, passed 2-15-90)

§ 32.03 TERMS OF OFFICE; VACANCIES.

(A) (1) Incumbent appointed members at the time of adoption of this subchapter shall continue in office until the expiration of the term for which they were appointed. Their successors shall hold office for four years.

(2) Any vacancy shall be filled by the City Council for the unexpired portion of the term.

(B) A member of the Commission may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. (Ord. 695, passed 9-19-86; Am. Ord. 751, passed 2-15-90)

§ 32.04 ELECTION OF OFFICERS; DUTIES.

(A) The Commission, at its first meeting, shall elect the Chairperson and Vice-Chairperson who shall hold office at the pleasure of the Commission.

(B) The City Administrator shall appoint the Secretary who shall not be a member of the Commission. The Secretary shall keep an accurate record of all Commission proceedings. The Commission shall, on October 1 each year, make and file a report of all its transactions with the City Council. (Ord. 695, passed 9-19-86; Am. Ord. 751, passed 2-15-90)

§ 32.05 MEETINGS AND RULES.

(A) A majority of the Commission members shall constitute a quorum. The Commission shall make and alter rules and regulations for its government and procedure consistent with laws of the state and with the City Charter and ordinances. The

Commission shall meet at least once each month, at the times and places as may be fixed by the Commission.

(B) Special meetings may be called at any time by the Chairperson or by three members by written notice served upon each member of the Commission at least 24 hours before the time specified for the proposed meeting. (Ord. 695, passed 9-19-86; Am. Ord. 751, passed 2-15-90)

§ 32.06 DUTIES AND POWERS.

(A) The Commission shall have the powers and duties provided for by O.R.S. 227.090, other state law, the City Charter and other city ordinances.

(B) The Commission shall function primarily as a comprehensive planning body proposing policy and legislation to the Council related to the growth and development of the community. In addition to the authority provided in division (A) above, the Commission may:

(1) Review the comprehensive plan and make recommendations to the Council concerning plan amendments which it has determined are necessary based on further study or changed concepts, circumstances or conditions;

(2) Formulate and recommend legislation to implement the comprehensive plan;

(3) Review and recommend plans which relate to public facilities and services and subarea plans which relate to specific areas of the community to implement the comprehensive plan;

(4) Assist in the formulation of a capital improvement program;

(5) Review and make recommendations concerning any proposed annexation;

Zoning, see Chapter 153

(6) Conduct hearings, prepare findings of fact and take actions concerning specific land development proposals as required by city ordinances;

(7) Advance cooperative and harmonious relationships with other planning commissions, public and semipublic agencies and officials and civic and private organizations to encourage the coordination of public and private planning and development activities affecting the city and its environs;

(8) Recommend to the Council and other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to industrial pursuits;

(9) Advertise the industrial advantages and opportunities of the city and availability of real estate within the city for industrial settlement;

(10) Encourage industrial settlement within the city;

(11) Make economic surveys of present and potential industrial needs of the city;

(12) Study needs of local industries with a view to strengthening and developing them and stabilizing employment conditions; and

(13) Study and propose, in general, such measures regarding land development as may be advisable for promotion of the public interest, health, safety, comfort, convenience and welfare. (Ord. 695, passed 9-19-86; Am. Ord. 751, passed 2-15-90)

Cross-reference:

Comprehensive Plan, see Chapter 154

Drainage Areas, see Chapter 152

Subdivisions, see Chapter 151

CABLE TELEVISION COMMISSION

§ 32.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSION. The Cable Television Commission established hereby.

FEDERAL ACT. The sections of the Communications Act of 1934 dealing with cable television as amended by the Cable Communications Policy Act of 1984, Public Law 98-549, and by the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102-385, October 5, 1992, 106 Stat. 1460.

FRANCHISING AUTHORITY. Local government with authority to grant a franchise to a cable operator.
(Ord. 794, passed 8-4-94)

§ 32.16 CREATION OF REGIONAL COMMISSION.

(A) The Regional Cable Television Commission is hereby created. It shall consist of a public elected or appointed official from each franchising authority enacting an ordinance similar to the ordinance empowering the Commission, as herein provided.

(B) (1) A majority of the public officials designated hereunder or five of them, whichever is less, shall constitute a quorum and, except as provided in this division, all actions of the Commission shall be determined by a majority of the officials present.

(2) When a matter before the Commission only affects cable customers in one city, the public

official representing that city on the Commission must vote with the prevailing side for the Commission to take action.

(C) The franchising authority's representative on the Commission shall be an appointed or elected official of the franchising authority, nominated by the Mayor or other chief executive and approved by the Council or governing body. The representative shall serve at the pleasure of the Council or governing body. When unable to attend Commission meetings, the representative may designate an alternative who shall be another appointed or elected official of the franchising authority and who may act in the representative's stead on matters before the Commission.

(Ord. 794, passed 8-4-94)

§ 32.17 DUTIES AND POWERS.

(A) The duties of the Commission shall be:

(1) To administer the existing cable television franchise issued by the franchising authority and any future franchise enacted by the franchising authority;

(2) To establish by resolution within the franchise authority territories where the Commission has been empowered, all necessary regulations of cable television operators, including, but not limited to rate regulations, rate setting procedures, procedures to insure only properly established rates are being charged customers, consumer protection regulations and other regulations as the Commission deems necessary to perform its duties;

(3) Within the limitations of this subchapter, to establish and impose penalties for violation of the Commission's regulations;

(4) To establish procedures for hearing and disposing of all complaints concerning cable television service within the franchising authority;

(5) Except for powers expressly reserved to the franchising authority in this subchapter, to perform within the geographic jurisdiction of the franchising authority all functions now or hereafter granted to local franchising authorities under the Federal Act and FCC regulations; and

(6) To perform other duties and delegate the Commission a member of the franchising authority.

(B) Except as expressly reserved to the franchising authority in this subchapter, all powers of the franchising authority under state and federal law and under the franchising authority's existing cable television franchise are hereby delegated to the Commission.

(C) To enable it to perform its duties but subject to the limitations in this subchapter, the Commission shall have the following powers:

(1) By resolution of the Commission, to adopt by-laws, rules of procedure and other regulations, including the determination of penalties within the jurisdiction limits of the franchising authority for violation of its rules and regulations;

(2) To contract and enforce its contracts and regulations in administrative and judicial forums of the state and federal governments;

(3) Negotiate and recommend to the franchising authority for enactment amendments to existing cable television franchises and new franchises;

(4) To sue and be sued in the name of the Commission;

(5) To employ staff by contracting with Lane Council of Governments or with a local franchising authority that is a member of the Commission;

(6) To impose dues upon member franchising authorities to cover the cost of performing its responsibilities under this subchapter when the fees and charges collected from the cable operator are insufficient to meet the expenses of the Commission and its staff, and to deny participation of any member franchising authority’s representatives and to refuse to consider matters which only affect a franchising authority that is delinquent in payment of its dues until the delinquency is corrected;

(7) To designate Lane Council of Governments or another member franchising authority to budget the Commission’s revenues and expenditures and, to the degree necessary, comply with the state local government budget law; and

(8) To take any action necessary or convenient to perform its duties.
(Ord. 794, passed 8-4-94)

Cross-reference:

Franchises, Leases, Permits and Contracts, see T.S.O. Table IV

§ 32.18 PROCEDURE FOR ADOPTING REGULATIONS.

(A) (1) Except as provided herein, all resolutions which impose a penalty or which concern consumer protection regulations or rate making regulations shall be adopted by the Commission only after published notice of the proposal and an opportunity for public comment. The notice shall contain a brief summary of the proposed regulation, identify where copies of the full text of the regulation

may be obtained, and specify the date, time and location where the Commission will receive public comment.

(2) The notice shall be published twice; the first publication not less than ten days and second publication not less than three days before the time of receiving comments.

(3) The notice shall be in a newspaper of general circulation within the community or communities affected by the proposed regulation.

(B) When the Commission determines that it lacks adequate regulations to fulfill its duties, that if the regulation is not enacted the Commission’s ability to perform its duties will be impaired, and that it is acting in a manner that is not prohibited by the Federal Act of regulations propounded thereunder, it may summarily adopt regulations which shall remain in effect until permanent regulations may be enacted, provided that temporary regulation shall expire upon enactment of the regulation hereunder or six months, whichever for occurs.

(Ord. 794, passed 8-4-94)

§ 32.19 RESERVATION OF POWERS.

The franchising authority hereby reserves to itself the power:

(A) To enact cable television service franchised after receiving the Commission’s recommendation;

(B) To appear in any proceeding before the Commission or its designee and to appeal any decision of the Commission or its designee;

(C) To regulate the cable operator’s use of the public way and public property over which the

operator has been given a right of use and to enforce local land development laws; and

(D) To withdraw from the Commission by repealing this subchapter after giving 90 days prior written notice of its intent to withdraw to the Commission.

(Ord. 794, passed 8-4-94)

***ECONOMIC DEVELOPMENT
ADVISORY COMMITTEE***

§ 32.30 CREATION.

There is created the Economic Development Advisory Committee, hereinafter referred to as “the Committee,” for the city.

(Ord. 845, passed 2-15-01)

§ 32.31 MEMBERSHIP; TERM OF OFFICE.

(A) (1) The Committee shall consist of five members, plus one alternate to be appointed by the City Council.

(2) Committee members shall receive no compensation, but shall be reimbursed for duly authorized expenses.

(3) No more than one member, including the alternate, shall be engaged in the same kind of occupation, business, trade or profession.

(B) (1) Except as described herein and for appointments to fill an unexpired term, all members of the Committee shall be appointed for a term of four years each.

(2) Each member shall be assigned to one of three positions which shall be numbered “Position 1” through “Position 3.”

(3) A member of the Committee may be removed by the City Council after hearing, for misconduct or nonperformance of duty.

(4) Any vacancy shall be filled by the City Council for the unexpired portion of the term.

(Ord. 845, passed 2-15-01; Am. Ord. 860, passed 8-1-02)

§ 32.32 ELECTION.

(A) The Committee, at its first meeting of each new year, shall elect the Chairperson and Vice-Chairperson.

(B) The Chairperson and the Vice-Chairperson shall be voting members who shall hold their office at the pleasure of the Committee.

(Ord. 845, passed 2-15-01)

Cross-reference:

Nomination of city candidates, see § 35.02

**§ 32.33 FINANCIAL INTERESTS;
PARTICIPATION LIMITATIONS.**

(A) A member of the Committee shall not participate in any Committee proceedings or action in which any of the following has a direct or substantial financial interest of the member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

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(B) Any actual or potential interest shall be disclosed at the meeting of the Committee where the action is being taken.

(Ord. 845, passed 2-15-01)

**§ 32.34 MEETINGS AND QUORUM;
SCHEDULE.**

(A) All meetings of the Committee shall be public and shall be scheduled and conducted in accordance with state statues relating to public meetings.

(B) Two members of the Committee shall constitute a quorum. The Committee may make and alter rules and regulations for its governance and procedures consistent with the laws of the state and with the City Charter and ordinances.

(C) Special meetings may be called at times by notice served upon each member of the Committee at least 24 hours before the time specified for the proposed meeting.

(Ord. 845, passed 2-15-01)

**§ 32.35 POWERS AND DUTIES;
EXPENDITURE.**

(A) (1) The Committee shall have all the powers that are now or hereafter granted to it by ordinances of the city or by general laws of the state.

(2) The Committee is advisory to the City Council and the City Administrator and has no power beyond recommendation and oversight.

(B) The Committee shall have no authority to make expenditures on behalf of the city, or to obligate the city for the payment of any sums of money, except as the same may be authorized by the City Council or

pursuant to budget appropriations and pursuant to administrative methods by which the funds shall be drawn and expended.

(Ord. 845, passed 2-15-01)

Cross-reference:

Contracting rules adopted by reference, see § 35.05

Local Improvements, see T.S.O. Table V

**§ 32.36 RECOMMENDATIONS TO CITY
COUNCIL.**

All recommendations and suggestions made to the City Council by the Committee shall be in writing.

(Ord. 845, passed 2-15-01)

CHAPTER 33: PERSONNEL

Section

33.01 Regulations adopted by reference

§ 33.01 REGULATIONS ADOPTED BY REFERENCE.

The city's personnel regulations are hereby adopted by reference and incorporated fully as if set out herein.

CHAPTER 34: MUNICIPAL COURT

Section

- 34.01 Municipal Court; operation
- 34.02 Municipal Judge; powers and appointment

§ 34.01 MUNICIPAL COURT; OPERATION.

The Municipal Court will be held at the County Justice of the Peace Court on the days that the Court is open and at the times designated by the Municipal Judge.

(Ord. 765, passed 6-20-91)

§ 34.02 MUNICIPAL JUDGE; POWERS AND APPOINTMENT.

The Municipal Judge shall have all inherent statutory powers and duties of the Justice of the Peace within the jurisdictional limits of the city. The Municipal Judge will be appointed and serve at the pleasure of the City Council. The Municipal Judge is hereby authorized to appoint Assistant Municipal Judges, as he or she shall deem necessary from time to time, to hold office and conduct sessions of the Municipal Court.

(Ord. 765, passed 6-20-91)

CHAPTER 35: CITY POLICIES

Section

General Provisions

- 35.01 Personal property sale procedures
- 35.02 Nomination of city candidates
- 35.03 Inventory of impounded vehicles
- 35.04 Initiative and referendum procedures
- 35.05 Contracting rules adopted by reference

Processing Claims

- 35.20 Regulations adopted by reference

Cross-reference:

Emergency Services, see Chapter 37

GENERAL PROVISIONS

§ 35.01 PERSONAL PROPERTY SALE PROCEDURES.

(A) It shall be the duty of the Police Department, whenever personal property shall be found without an owner claiming the same, or shall, by reason of arrest, confiscation, impoundment or in any other manner, come into the hands of the Police Department, to place the same in storage for further disposition pending investigation of ownership.

(B) (1) The Police Department, on finding personal property, or coming into possession of the same, shall make diligent inquiry of all persons as to

the home and address of the owner, conditional vendor, mortgagee or any person interested therein and shall examine the personal property for serial number, make and style, and any other information on the personal property which will aid in the identification of the owner, conditional vendor, mortgagee or other interested person.

(2) Subsequent to the investigation provided herein, and when under all the circumstances, including, but not limited to the nature and value of the property and the manner in which it came into the Police Department's possession, the Chief of Police or his or her designee is satisfied that a person entitled to possession has been found, the property may be released forthwith to that person upon payment of any of the applicable costs as set forth in division (C) below. In all other cases, if the owner or conditional vendor of the property referred to in this section or mortgagee or other person interested therein is found and identified, he or she shall be notified by certified letter that the personal property is held by the Police Department, the date the property came into the possession of the Department, and that the property will be sold as provided in division (D) below, which sale shall not be held earlier than 30 days from the date the personal property came into the possession of the Police Department, and in any event not until ten days have elapsed from the mailing of the certified notice.

(3) A person who finds money or goods valued at \$25 or more may dispose of the property as provided in O.R.S. 98.005 through 98.025. If the

finder chooses to leave the property with the Police Department, within 20 days after the date of the finding, the finder of the money or goods shall cause to be published in a newspaper of general circulation in the county a notice of the finding once each week for four consecutive weeks. Each notice shall state the general description of the money or goods found, the name and address of the finder, location at the Police Department and final date before which the goods may be claimed. If no person appears and establishes his or her ownership of the money or goods prior to the expiration of six months after the date of delivery to the Police Department, the finder shall be the owner of the money or goods.

(C) (1) If, after 30 days from the date the personal property valued at \$25 or more shall come into the possession of the Police Department, the owner, conditional vendor, mortgagee or other person interested therein cannot be found after due diligence as herein set out, then the Chief of Police shall cause to be published in a newspaper printed and published in the county, a notice generally describing the finding, the property found and the final date before which the property may be claimed once each week for four consecutive weeks.

(2) If the owner, conditional vendor, mortgagee or other person interested therein applies to the Chief of Police for the return of the property before a sale has taken place, and submits to the Chief of Police satisfactory evidence of his or her interest and pays the costs in the seizing and holding of the personal property, the Chief of Police, being satisfied with the claim, shall surrender the same to the claimant.

(3) If no person appears and establishes his or her ownership of or interest in the property prior to the expiration of six months after the date that the personal property has come into the possession of the Police Department, the city shall sell the property

pursuant to division (D) below, or upon approval of the City Administrator, shall transfer the property to public use by entering it on the city's fixed asset inventory, or if the personal property is declared unlawful to possess by state law, it shall be destroyed by the Chief of Police.

(D) (1) All unclaimed or surplus personal property shall be sold by the City Administrator or the Administrator's designee. The property shall be sold based on competitive bids or by auction. If sold by auction, the property shall be advertised for sale and, at the time appointed and within view of the property to be sold, shall be offered for sale to the highest bidder for cash. In default of bids from others, the City Administrator may dispose of the property in his or her discretion without the necessity of taking further bids. If the current market value of the property is less than \$1,000, the City Administrator may establish a selling price, schedule and advertise a sale and sell to the first qualified buyer meeting the sale terms. The City Administrator shall select the method of sale that maximizes the value the city will realize from the sale of the property.

(2) On the consummation of a sale, the City Recorder shall make, execute and deliver on behalf of the city, a bill of sale signed by himself or herself as City Recorder, conveying the property in question to the purchaser and delivering possession of the property to the purchaser.

(3) The sale and conveyance shall be without redemption. The proceeds of the sale shall be first applied to storage, publication fees and other costs of the keeping and sale, and the balance shall go to the general fund of the city. No claim for storage and towing shall exceed the proceeds from the sale of personal property.

(4) The owner or operator of a place in which personal property has been stored by the Police

Department shall not release property without first having obtained a written release from the Police Department.

(E) The owner or operator of any place in which personal property referred to in this section has been stored by the Police Department shall, at least 15 days prior to the date of the auction scheduled for his or her storage place, or upon request of the City Recorder, render an inventory of all property presently held. The inventory shall include the date of impound and descriptive information regarding the personal property.

(F) In the case of perishable goods and animals, if the owner cannot be ascertained and public sale is impractical because of potential spoilage, insufficient or nonexistent sale value or similar reasons, the Chief of Police may turn over the goods or animal to a governmental or charitable institution for humane and appropriate distribution.

(G) (1) The city may cause personal property coming into the hands of the Police Department to be appraised by a qualified appraiser. If personal property is appraised at less than \$25, the Chief of Police may prepare a notice of intent to dispose for the personal property and post it in a public place. The notice shall contain a description of the personal property, its location, its appraised value and notice that it will be disposed of after ten days from the date of the notice.

(2) If the owner, conditional vendor, mortgagee or other person interested in personal property is found or identified, a copy of the notice of intent to dispose shall be sent to the owner, conditional vendor, mortgagee or other person interested therein, whichever of the following events is later:

(a) The owner, conditional vendor, mortgagee or other interested person, after exercise of due diligence, cannot be found;

(b) The owner, conditional vendor, mortgagee or other interested person, after notification as prescribed in this section, has not reclaimed the personal property; or

(c) The owner, conditional vendor, mortgagee or other interested person has signed a release, under oath, disclaiming any future interest in the personal property, to the effect that any and all future rights of ownership or interest of any owner, conditional vendor, mortgagee or other interested party in the property shall be extinguished.

(H) The provisions in this section for disposal of personal property are in addition to other methods of disposal the Council may authorize by ordinance. (Ord. 723, passed 6-19-86)

§ 35.02 NOMINATION OF CITY CANDIDATES.

(A) The nomination of candidates for elective city offices shall comply with the procedures set forth in this section.

(B) Any person who:

(1) Is a qualified elector within the meaning of the State Constitution and City Charter;

(2) Has resided within the city during the 12 months immediately preceding the election; and

(3) Is not an employee of the city, but may be nominated for an elective city position in the manner set forth herein.

(C) (1) The nomination of a candidate for a city elective office shall be by petition that specifies the position being sought in a form prescribed by or approved by the Council.

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(2) The petition shall be signed by not fewer than 20 electors of the city.

(3) All of the signatures to a nomination petition do not need to be appended to one petition, but to each separate paper of the petition shall be attached an affidavit of the circulator thereof, indicating each signer's place of residence, identified by its street and number or other sufficient description.

(4) All nomination papers comprising a petition shall be assembled and filed with the City Recorder as one instrument, not earlier than 100 nor later than 70 days before the election. The City Recorder shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed.

(5) If the petition is not signed by the required number of qualified electors, the City Recorder shall so notify the candidate and the person who filed the petition within five days after the date of filing.

(6) If the petition is insufficient in any other particular, the City Recorder shall return it immediately to the person who filed it and shall certify in writing wherein the petition is insufficient.

(7) A deficient petition may be amended and filed again as a new petition, or a different petition for the same candidate may be filed, providing it may be done so within the regular time for filing nomination petitions.

(D) (1) The City Recorder shall notify an eligible person of his or her nomination. Within five days of the notification, the person shall file with the City Recorder the person's written acceptance of nomination, in the form as the Council may require.

(2) Upon receipt of the acceptance of nomination, the City Recorder shall cause the nominee's name to be printed on the ballots.

(3) The petition of nomination for a successful candidate at an election shall be preserved in the Office of the City Recorder until the term of office for which the candidate is elected expires. (Ord. 793, passed 7-7-94; Am. Ord. 847, passed 5-17-01; Am. Ord. 872, passed 8-5-04)

§ 35.03 INVENTORY OF IMPOUNDED VEHICLES.

(A) (1) When a vehicle has been lawfully impounded by the city, the contents shall be inventoried.

(2) An inventory conducted pursuant to this section shall be made for the following purposes:

(a) To ensure the protection of the owner's property while it is impounded;

(b) To reduce the potential assertion of false claims against the city or other persons for lost, stolen or damaged property; and

(c) To reduce the danger to police officers and others from the impoundment of uninventoried property.

(3) An inventory conducted pursuant to this section shall be carried out in accordance with an administrative program adopted hereunder.

(B) The City Administrator or Administrator's designee shall establish an administrative program designed and administered so that the inventory is conducted for the purposes set forth herein and under specific guidelines which ensure that the inventory involves no exercise of discretion by the person conducting the inventory.

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(C) The matters contained herein concern the public health, welfare and safety, and in order to ensure the orderly implementation of these provisions, an emergency is hereby declared to exist and shall become effective immediately upon its passage by the City Council and approval by the Mayor.

(Ord. 796, passed 10-6-94)

Cross-reference:

Abandoned Vehicles, see Chapter 94

§ 35.04 INITIATIVE AND REFERENDUM PROCEDURES.

(A) The City Attorney shall prepare the ballot title according to state law for the proposed measure within five days after the Council orders the submission of a measure to the electors for approval or after a prospective petition is first filed with the City Recorder and verified as to form.

(B) The ballot title for a measure shall state truly and impartially the purpose of the measure in language that is not argumentative and does not tend to create prejudice concerning the measure. The title shall not resemble, so far as to create confusion, the ballot title for any other measure to be submitted to the electors at the same election.

(C) In addition to the ballot title, measures proposed by initiative petitions shall bear the designation “proposed by initiative petition;” measures referred to the electors by petition shall be designated “referendum ordered by petition of the people;” and measures submitted to the electors by the Council without petition shall be designated “submitted to the voters by the Council.”

(D) Upon completion of the ballot title, the City Attorney shall transmit the same to the City Recorder for filing. A copy of the ballot title shall immediately be furnished to the proponent of the petition.

(E) Any elector dissatisfied with the ballot title prepared by the City Attorney may appeal to the Council by a written appeal deposited with the City Recorder within five days after the ballot title is returned to the City Recorder for filing. The appeal shall ask for a different ballot title for the measure and state why the ballot title prepared and filed is unsatisfactory. Within three business days after filing of the appeal, the Council shall, either in regular or special session, afford the appellant a hearing and either approve the title as prepared or prescribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure.

(Ord. 737, passed 6-2-88)

§ 35.05 CONTRACTING RULES ADOPTED BY REFERENCE.

The city’s contracting rules and procedures are hereby adopted by reference and incorporated fully as if set out herein.

PROCESSING CLAIMS

§ 35.20 REGULATIONS ADOPTED BY REFERENCE.

The city’s processing claims regulations are hereby adopted by reference and incorporated fully as if set out herein.

CHAPTER 36: PUBLIC IMPROVEMENTS; ASSESSMENTS

Section

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- 36.50 Exemptions
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- 36.52 Segregation and use of revenue
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Cross-reference:

Public Improvements, see T.S.O. Table V

PUBLIC IMPROVEMENTS; ASSESSMENTS

§ 36.01 DEFINITIONS.

CITY ENGINEER. The duly appointed City Engineer or the engineer or firm of engineers so designated for the project.

CITY RECORDER. The City Recorder or the city officer designated to act in the Recorder's stead.

IMPROVEMENT or PUBLIC

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 parcels of real property, which provides a special benefit only to specific parcels or rectifies a problem caused by specific parcel(s). Such local improvements may include, but are not limited to, streets, sidewalks, street lights, underground utilities, sanitary or storm sewerage facilities, water utility facilities, off-street motor vehicle parking facilities, flood control facilities, parks, playgrounds or neighborhood recreation facilities.

OWNER. The record holder of the legal title to the land in question, or a purchaser of the land whose interest therein is evidenced by a recorded contract for the sale thereof or by a written, verified statement by the record holder of the legal title to the land duly filed with the City Recorder.
(Ord. 846, passed 4-19-01)

§ 36.02 DECLARATION OF INTENTION, REPORT FROM CITY ENGINEER, RECOMMENDATION.

(A) Whenever the Council shall decide to make a public improvement to be paid for in whole or in part by special assessments according to benefits, the Council shall by motion declare its intention to initiate such improvement and direct the City Engineer to make a survey and written report of such project and file the same with the City Recorder.

(B) Unless the Council shall direct otherwise, such report shall contain:

(1) A plat or map showing the general nature, location, and extent of the proposed

improvements and the lands to be assessed to pay all or any part of the cost thereof;

(2) Plans, specifications, and estimates of the work to be done;

(3) An estimate of the probable cost of the improvement including legal, administrative, and engineering costs attributable thereto;

(4) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the property specially benefitted;

(5) An estimate of the unit cost of the improvement to the specially benefitted properties;

(6) A description of the location and assessed value of each parcel of land, or portion thereof, to be specially benefitted by the improvement, with the names of the owners thereof, as herein defined;

(7) A recommendation of the payment schedule and interest to be charged on assessments paid in installments;

(8) A statement showing outstanding assessments against property to be assessed; and

(9) Any other information required by the Council.

(Ord. 846, passed 4-19-01)

§ 36.03 COUNCIL CONSIDERATION OF ENGINEER'S REPORT.

After the City Engineer's report has been filed with the City Recorder, the Council shall consider the report, and may approve the report as submitted, or amend and approve the report as amended. The

Council may direct the City Engineer to furnish the Council with a further report or information or, on the basis of the Engineer's report, the Council may by motion record its intention to abandon the improvement.

(Ord. 846, passed 4-19-01)

§ 36.04 RESOLUTION AND NOTICE OF HEARING.

(A) After the Council has approved the Engineer's report as submitted or as amended, the Council shall, by resolution, designate the proposed improvement, declare its intention to make such improvement, provide the manner and method of carrying out the improvement, and shall direct the City Recorder to give notice of such improvement by two publications one week apart in a newspaper of general circulation within the city and by mailing copies of such notice by registered or certified mail to the owners to be assessed for the costs of such improvement.

(B) The notice shall contain the following matters:

(1) That the report of the City Engineer is on file in the Office of the City Recorder and is subject to public examination;

(2) That the Council will hold a public hearing on the proposed improvement at a specified place, time, and date, which shall not be earlier than ten days following the first posting or publication of notice, at which objections and remonstrances to such improvement will be heard by the Council; and that if prior to such hearing there shall be presented to the City Recorder valid, written remonstrances of the owners of b of the property to be specially assessed for such improvement, then the proposed improvement will be abandoned for at least six months;

(3) A general description of the property to be specially benefitted by the improvement (which description may be by county tax lot numbers only), the owners of such property, the Engineer's estimate of the unit cost of the improvement to be specially benefitted, and the estimated total cost of the improvement to be paid for by special assessments on benefitted properties; and

(4) That the Council intends to characterize each assessment as a local improvement assessment under Section 11(b), Article XI of the Oregon Constitution and that such characterization may be challenged by petition of an interested taxpayer filed pursuant to O.R.S. 305.583(4) within 60 days of the date the notice is sent.

(Ord. 846, passed 4-19-01)

§ 36.05 MANNER OF DOING WORK.

The Council may provide in the improvement resolution that the construction work may be done in whole or in part by the city, by contract, by any other governmental entity, or by any combination thereof.

(Ord. 846, passed 4-19-01)

§ 36.06 HEARING.

At the public hearing on the proposed improvement the Council shall hear oral objections to the proposed improvement and shall consider any written remonstrances thereto. Written remonstrances by the owners of b of the property to be specially assessed for such improvement, if the improvement is one that can be remonstrated against, shall defeat the proposed improvement. In that event, no further action to affect the proposed improvement shall be taken for six months. If the Council, after hearing objections and considering any remonstrances, finds that there is not a sufficient remonstrance, it may

proceed with the proposed improvement or, on its own motion, the Council may abandon the project. (Ord. 846, passed 4-19-01)

§ 36.07 CALL FOR BIDS.

(A) The Council may, in its discretion, direct the City Recorder to advertise for bids for construction of all or any part of the improvement project on the basis of the Council-approved Engineer's report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after said public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrances and oral objections to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids, then the Council shall determine the time and manner of advertisement for bids in accordance with its public contracting rules; and the contracts shall be let to the lowest responsible bidder; provided, that the Council shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory. The city shall provide for the bonding of all contractors for the faithful performance of any contract let under its authority, and the provisions thereof in case of default shall be enforced by action in the name of the city.

(B) If the Council finds, upon opening bids for the work of such improvement, that the lowest responsible bid is substantially in excess of the Engineer's estimate, it may, in its discretion, hold a special hearing for objections to the improvement on the basis of such bid, and it may direct the City Recorder to publish one notice thereof in a newspaper of general circulation in the city. (Ord. 846, passed 4-19-01)

§ 36.08 ASSESSMENT.

If the Council decides to make the improvement when the estimated cost thereof is ascertained, the City Engineer shall determine the amount of the assessments, in accordance with § 36.09 of this subchapter, to each specially benefitted lot or parcel in the improvement district, including a proportionate share of overhead costs, such as the cost of engineering, interest on warrants, advertising, postage and supplies for mailing notices of assessments and bonding. (Ord. 846, passed 4-19-01)

§ 36.09 METHOD OF ASSESSMENT.

The Council may:

(A) Use a fair and reasonable method for determining the extent of the district boundaries that is consistent with the benefits derived;

(B) Use a fair and reasonable method for apportioning the actual cost or estimated cost of the local improvement among the benefitted properties;

(C) Authorize payment by the city of all or any part of the cost of such improvement; provided, that the method selected creates a reasonable relation between the benefits derived by the property specially benefitted and the benefits derived by the city as a whole;

(D) At any time prior to the effective date of the ordinance levying the assessments for any district, modify the method adopted in the resolution forming the district if the Council determines that a different method is a more just and reasonable method of apportioning the cost of the project to the properties benefitted;

(E) Use any other means to finance improvements, including federal or state grants-in-aid, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance to pay either all or any part of the cost of the improvements;

(F) To the extent the Council does not establish a just and reasonable method of assessment by resolution, then the following provisions shall govern the method of apportionment:

(1) Individual properties shall pay for public improvements specially benefitting that property; and

(2) The city will pay the cost of:

(a) Extra-capacity improvements when the size of the public improvements required exceed the minimum standards of the city, and the project has been included in the city budget document for the fiscal year during which construction of the improvement is scheduled; and

(b) Special and unusual costs when the Council determines that circumstances exist which warrant city payment of all or a portion of the cost of the public improvements.

(Ord. 846, passed 4-19-01)

§ 36.10 APPORTIONMENT OF ASSESSMENTS.

(A) *Subtraction of city financed costs.* Costs of the improvement to be borne by the city shall be excluded from the assessment before apportionment.

(B) *Special improvements.* Special costs or features of the improvement that benefit a particular

parcel of property in a manner peculiar to that parcel shall, together with a share of the overhead for the improvement, be assessed separately against the parcel.

(C) *Apportionment of assessment.* If property owners of all or a part of the benefited properties within the improvement district are in unanimous agreement, and so request, then their share of the improvement costs may be apportioned as an equal amount.

(Ord. 846, passed 4-19-01)

§ 36.11 ASSESSMENT ORDINANCE.

(A) The Council may determine that the local improvement shall be made when the estimated cost thereof is ascertained on the basis of the contract award or city departmental or other agency cost, or after the work is done and the cost thereof has been actually determined. The Council shall then determine whether the property benefitted shall bear all or a portion of the cost.

(B) The City 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. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amounts of assessment proposed on that property and shall fix a date by which time written objections shall be filed with the City Recorder. Any such objection shall state the grounds thereof.

(C) The Council shall consider such objections and may adopt, correct, modify or revise the proposed assessment and shall determine the amount of assessment to be charged against each lot within the

district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments.
(Ord. 846, passed 4-19-01)

§ 36.12 NOTICE OF ASSESSMENT.

(A) Within ten days after the ordinance levying assessments has been passed, the City Recorder shall send by registered or certified mail a notice of assessment to the owner of the assessed property, and shall publish notice of such assessment once a week for two successive weeks in a newspaper of general circulation in the city, the first publication of which shall be made not later than ten days after the date of the assessment ordinance.

(B) The notice of assessment shall recite the date of the assessment ordinance, identify the local improvement for which the assessment is made, and shall state that, upon the failure of the owner of the property assessed to make application to pay the assessment in installments within ten days from the date of the first publication of notice, or upon the failure of the owner to pay the assessment in full within 30 days from the date of the assessment ordinance, then interest will commence to run on the assessment and that the property assessed will be subject to foreclosure. The notice shall further set forth a description of the property assessed (which description may be by county tax lot number only), the name of the owner of the property, and the amount of the assessment.
(Ord. 846, passed 4-19-01)

§ 36.13 DEFERRAL OF ASSESSMENT PAYMENT ON DELAY OF BENEFIT.

(A) Collection of an assessment for construction of a new street, and all local improvements within the

street right-of-way, opened through action of the Council may be deferred when the abutting property does not have or is denied driveway access or access to any of the local improvements within the right-of-way, and the property is not developed for a purpose which makes use of the street, or any local improvements therein.

(B) If the local improvement will primarily benefit a land division approved by the planning commission in the preceding 18 months, and the street improvement is required by the Council to comply with a neighborhood street pattern adopted by the planning commission, and a deferral has been granted to the abutting property owners under division (A) of this section, then the land divider shall pay the total cost of the deferred assessment to the city at the time of assessment.

(C) If a deferral of assessment is granted under division (A) of this section, then the city shall establish a one-foot reserve strip within the public right-of-way to prohibit connection by the abutting property owners to the street, or any local improvement therein.
(Ord. 846, passed 4-19-01)

§ 36.14 INSTALLMENT APPLICATIONS AND DEFERRAL AGREEMENTS.

The City Recorder shall make available to interested persons, upon request: (1) installment applications in a form approved by the city attorney established in accordance with O.R.S. 223.215, and (2) information regarding eligibility for deferral of assessment payments. An eligible property owner who requests a deferral shall submit evidence of eligibility on forms provided by the City Recorder. After review of the evidence submitted, the City Recorder shall notify the applicant whether the request has been granted. If it has, the applicant shall enter

into a contract to pay the assessment in accordance with the terms of the application. The contract shall be on a form approved by the City Attorney, and may be recorded in the official records of Lane County, Oregon.
(Ord. 846, passed 4-19-01)

§ 36.15 INSTALLMENT AND DEFERRAL CONTRACTS: LIENS.

Any assessment for which payments will be paid in installments or have been deferred under § 36.14 of this subchapter shall be recorded in the lien docket for the city and shall be a lien on the property to which the assessment pertains. When a deferred assessment becomes due under § 36.18 of this subchapter, it may be enforced and collected as though it has not been deferred.
(Ord. 846, passed 4-19-01)

§ 36.16 TERMINATION OF DEFERRAL OF ASSESSMENTS.

(A) A deferral of street and drainage assessments shall terminate if the abutting property owner takes access to the street through a driveway.

(B) A deferral of an assessment for a particular improvement, such as a water main, storm sewer, sanitary sewer, sidewalk, or any other local improvement, shall terminate when the abutting property owner connects to that particular improvement for which the assessment has been levied. The deferral of assessment will not terminate for those improvements to which the property owner does not connect.

(C) A deferral of assessment shall terminate, for the entire amount of the assessment levied, if the abutting property is partitioned or if the abutting

property is developed for a use other than a single-family residence.
(Ord. 846, passed 4-19-01)

§ 36.17 REIMBURSEMENT TO LAND DIVIDER.

If a land divider has paid the city the total cost of a deferred assessment under § 36.13 of this subchapter, and the deferred assessment has been terminated by the city and abutting property owners in accordance with § 36.16 of this subchapter, then the land divider shall be reimbursed by the city in an amount equal to the amount of the assessment for which the deferral has been terminated.
(Ord. 846, passed 4-19-01)

§ 36.18 TERMINATION OF RESERVE STRIPS.

When all deferred assessments for a local improvement have been terminated, the city shall remove the one-foot reserve strip established under § 36.13(C) of this subchapter.
(Ord. 846, passed 4-19-01)

§ 36.19 LIEN RECORDS AND FORECLOSURE PROCEEDINGS.

(A) After passage of the assessment ordinance by the Council, the City Recorder shall enter in the docket of city liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance.

(B) Upon such entry in the lien docket, the amount so entered shall become a lien and charge

upon the respective lots, parcels of land or portions 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 fixed by ordinance, not exceeding 10% per annum, until paid, on all amounts not paid within 30 days from the date of such assessment ordinance.

(C) After expiration of 30 days from the date of such assessment ordinance, 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 to redeem such property. (Ord. 846, passed 4-19-01)

§ 36.20 ERRORS IN ASSESSMENT CALCULATIONS.

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 in fact. If the City Recorder shall find that there has been an error in fact, the City Recorder shall recommend to the Council an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the City Recorder shall make the necessary correction in the docket of city liens and send a correct notice of assessment by registered or certified mail to the affected property owner. (Ord. 846, passed 4-19-01)

§ 36.21 DEFICIT ASSESSMENT.

In the event that an assessment shall be made before the total cost of the improvement is

ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Council may, by motion, declare such deficit and prepare a proposed deficit assessment. The Council shall set a time for a hearing of objections to such deficit assessment and shall direct the City Recorder to publish one notice thereof in a newspaper of general circulation in the city. After such hearing, the Council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the docket of city liens as provided by this subchapter, and notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with §§ 36.11 and 36.12 of this subchapter.

(Ord. 846, passed 4-19-01)

§ 36.22 REBATES.

If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the Council must ascertain and declare the same by ordinance, and when so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his or her legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment.

(Ord. 846, passed 4-19-01)

§ 36.23 ABANDONMENT OF PROCEEDINGS.

The Council shall have full power and authority to abandon and rescind proceedings for improvements made under this subchapter at any time prior to the final completion of such improvements; and if liens have been assessed upon any property under such procedure, they shall be cancelled, and any payments

made on such assessments shall be refunded to the person paying the same, his or her assigns or legal representatives.

(Ord. 846, passed 4-19-01)

§ 36.24 CURATIVE PROVISIONS.

No improvement assessment shall be rendered invalid by reason of a failure of the Engineer's report to contain all of the information required by § 36.02 of this subchapter, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by this subchapter, or 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; and the Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

(Ord. 846, passed 4-19-01)

§ 36.25 REASSESSMENT.

Whenever any assessment, deficit or reassessment for any improvement which has been made by the city has been, or shall be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the Council shall be in doubt as to the validity of such assessment, deficit assessment, or reassessment, or any part thereof, then the Council may make a reassessment in the manner provided by the laws of the state.

(Ord. 846, passed 4-19-01)

§ 36.26 REMEDIES.

Subject to the curative provisions of § 36.24 of this subchapter and the rights of the city to reassess as provided in § 36.25 of this subchapter, proceedings for writs of review and suits in equity may be filed no later than 60 days after the first notice of hearing issued pursuant to § 36.04 of this subchapter; provided that the property owner shall have filed a written remonstrance to the proposed assessment as provided in § 36.06 of this subchapter, and shall not have paid the assessment or signed an application to pay the assessment in installments. Such property owner may commence a suit for equitable relief based on a total lack of jurisdiction on the part of the city; and if notice of the improvement shall not have been sent to the owner, and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the City Recorder within 30 days after receiving notice or knowledge of the improvement. This section shall not be construed so as to lengthen any period of redemption, or so as to affect the running of any statute of limitation or equitable defense, including laches. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the city to remedy or cure the alleged errors or defects.

(Ord. 846, passed 4-19-01)

§ 36.27 SEGREGATION OF ASSESSMENTS.

Whenever property assessed as an entire tract is subsequently subdivided or partitioned, the owner thereof may request the Council to apportion the assessment among the lots in the subdivision or partition. If the Council finds the segregation of the assessment can be made without prejudice to the security interest of the city and that the property taxes and assessments against the affected property are

current, the Council may determine the amount of each new parcel's assessment and direct the city lien docket be adjusted to reflect the Council's determination. Each request for segregation of assessment shall be accompanied by a fee in an amount specified by resolution of the Council. (Ord. 846, passed 4-19-01)

§ 36.28 POLICY REGARDING INITIATION OF LOCAL IMPROVEMENTS.

(A) Except for local improvement projects initiated by the City Council using its own discretion and except as provided in division (B) of this section, the Council shall not approve petitions for the construction of the local improvements to serve residentially zoned undeveloped property until the owner and petitioner:

(1) Are current on all obligations due the city including but not limited to local improvement assessments and on real property taxes for real property within the city in which the owners hold legal title or an equitable interest; and

(2) Provide the City Council with reasonable assurances that upon completion of the plans and specifications for the petitioned improvements, the petitioner and owner shall deposit with the city sufficient funds to keep the estimated assessments against petitioner's real property equal to or less than the real property's assessed value as determined by the Lane County Assessor.

(B) The Council may modify or waive the requirements of division (A) of this section upon a determination that:

(1) Its strict application will:

(a) Adversely affect the city's goals for economic development and diversification of employment opportunities within the community; and

(b) Have a negative impact on the city's ability to retire existing Bancroft Bond obligations;

(2) There is no lack of private capital available to finance improvements to undeveloped property; and

(3) The petitioner and owner have a history of meeting their financial obligations. (Ord. 846, passed 4-19-01)

CAPITAL IMPROVEMENTS

§ 36.40 PURPOSE.

The purpose of the system development charge is to impose a portion of the cost of capital improvements upon those developments that create the need for or increase the demands upon capital improvements. (Ord. 852, passed 10-4-01)

§ 36.41 SCOPE.

The system development charge imposed by this subchapter is separate from and in addition to, any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord. 852, passed 10-4-01)

§ 36.42 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAPITAL IMPROVEMENTS.

- (1) Facilities or assets used for:
 - (a) Water supply, treatment and distribution;
 - (b) Waste water collection, transmission, treatment and disposal;
 - (c) Drainage and flood control;
 - (d) Transportation; or
 - (e) Parks and recreation.
- (2) **CAPITAL IMPROVEMENT** does not include costs of the operation or routine maintenance of **CAPITAL IMPROVEMENT**.

DEVELOPMENT. Construction of a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and creating or terminating a right of access.

IMPROVEMENT FEE. A fee for costs associated with **CAPITAL IMPROVEMENTS** to be constructed after the date the fee is adopted pursuant to § 36.43 of this subchapter.

LAND AREA. The area of a **PARCEL OF LAND** as measured by projection of the parcel boundaries upon a horizontal plane, with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic preservation purpose.

OWNER. The owner or owners of record, title, or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

PARCEL OF LAND. A lot, parcel, block, or other tract of land that is occupied or may be occupied by one or more structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

QUALIFIED PUBLIC IMPROVEMENTS. A **CAPITAL IMPROVEMENT** that is required as a condition of development approval, identified in the plan adopted pursuant to § 36.47 of this subchapter; and either:

- (1) Not located on or contiguous to property that is the subject of the development approval; or
- (2) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

REIMBURSEMENT FEE. A fee for costs associated with **CAPITAL IMPROVEMENTS** constructed or under construction on the date the fee is adopted pursuant to § 36.43 of this subchapter.

SYSTEM DEVELOPMENT CHARGE. A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a **CAPITAL IMPROVEMENT**, at the time of issuance of a development permit or building permit, or at the time of connection to the **CAPITAL IMPROVEMENT**. **SYSTEM DEVELOPMENT CHARGE** includes that portion of a sewer system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with sewer facilities. **SYSTEM DEVELOPMENT CHARGE** does not include fees assessed or collected

as part of or in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use, limited land use, or expedited land division decision. (Ord. 852, passed 10-4-01)

§ 36.43 SYSTEM DEVELOPMENT CHARGE ESTABLISHED.

(A) A system development charge shall be established and may be revised by resolution of the Oakridge City Council.

(B) Unless otherwise exempted by the provisions of this subchapter or other local or state law, a system development charge is hereby imposed upon all parcels of land within the city and upon all lands outside the boundary of the city that connect to or otherwise use the sewer facilities of the city. (Ord. 852, passed 10-4-01)

§ 36.44 METHODOLOGY.

(A) The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, ratemaking principals employed to finance publicly owned capital improvements, and other relevant factors identified by the City Council. The methodology shall promote the objective that future system users shall contribute no more than an equitable share of the cost of then-existing facilities.

(B) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the system to which the fee is related.

(C) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the City Council.

(D) The methodology used to establish the improvement fee or the reimbursement fee shall not:

(1) Include or incorporate a method or system under which the payment of the fee or the amount of the fee is determined by the number of employees of an employer without regard to new construction, new development or new use of an existing structure by the employer;

(2) Include or incorporate any method or system under which the payment of the fee or the amount of the fee is based on the number of individuals hired by the employer after a specified date; or

(3) Assume that costs are necessarily incurred for capital improvements when an employer hires an additional employee.

(E) All methodology shall be available for public inspection. (Ord. 852, passed 10-4-01)

§ 36.45 AUTHORIZED EXPENDITURES.

(A) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(B) Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of debt for the improvements. An increase in system capacity occurs

if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to current or projected development.

(C) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to § 36.47 of this subchapter.

(D) Notwithstanding divisions (A) and (B) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this subchapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures. (Ord. 852, passed 10-4-01)

§ 36.46 EXPENDITURE RESTRICTIONS.

(A) System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(B) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 852, passed 10-4-01)

§ 36.47 IMPROVEMENT PLAN.

The City Council shall adopt a plan that:

(A) Lists the capital improvements that may be funded with improvement fee revenues;

(B) Lists the estimated cost and time of construction of each improvement; and

(C) Describes the process for modifying the plan. (Ord. 852, passed 10-4-01)

§ 36.48 COLLECTION OF CHARGE.

(A) The system development charge is payable upon issuance of:

(1) A building permit;

(2) A development permit;

(3) A development permit for development not requiring the issuance of a building permit;

(4) A permit to connect to the sewer system; or

(5) A permit to connect to the water system.

(B) If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

(C) If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

(D) The City Recorder shall collect the applicable system development charge when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.

(E) The city shall not issue such permit or allow such connection until the charge has been paid in full or unless an exemption is granted pursuant to § 36.50 of this subchapter.

(F) The applicant for a connection permit shall be required to state in writing the intended use of the building in sufficient detail to enable the city to determine the appropriate category of use. If the use of a building changes or if the stated use is incorrect, the occupant shall report the change of use to the city within 30 days and promptly pay any additional system development charge. If the applicant fails to report a correct statement of use or a change of use within 30 days or fails to pay the additional system development charge within ten days after invoice, the occupant shall pay a penalty of 10% of the balance due plus interest on the unpaid balance at the rate of 1.5% per month.

(Ord. 852, passed 10-4-01)

§ 36.49 DELINQUENT CHARGES; HEARING.

(A) When, for any reason, the system development charge has not been paid, the City Manager shall report to the City Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name of the owner.

(B) The City Council shall schedule a public hearing on the matter and direct that notice of the hearing be given to each owner with a copy of the City Manager's report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both personal and mailed notice, and by posting notice on the parcel at least ten days before the date set for the hearing.

(C) At the hearing, the City Council may accept, reject, or modify the determination of the City Manager as set forth in the report. If the City Council finds that a system development charge is unpaid and uncollected, it shall docket the unpaid and uncollected system development charge in the lien docket.

(D) Upon completion of the docketing, the city shall have a lien against the described land for the full amount of the unpaid charge, together with interest at the legal rate of 10% and with the city's actual cost of serving notice of the hearing on the owners. The lien shall be enforceable in the manner provided in O.R.S. Chapter 223.

(Ord. 852, passed 10-4-01)

§ 36.50 EXEMPTIONS.

(A) Structures and capital improvement uses established and existing or currently under construction with an approved building permit on or before the passage of this subchapter are exempt from a system development charge to the extent of the use then existing.

(B) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the capital improvement is exempt from a system development charge.

(C) Projects financed by city revenues are exempt from all system development charges.

(Ord. 852, passed 10-4-01)

§ 36.51 CREDITS.

(A) A system development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given for construction of a qualified public improvement. The credit shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements as defined in § 36.42 of this subchapter may be granted only for the cost of that portion of such improvement that exceeds the city's minimum standard facility size or capacity needed to serve that particular development project or

property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this section.

(B) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. However, this subsection shall not prohibit the city from providing a greater credit, or from establishing a system providing for the transferability of credits, or from providing a credit for a capital improvement not identified in the plan adopted pursuant to § 36.47, or from providing a share of the cost of such improvement by other means, if the city so chooses.

(C) Credit shall be used no later than ten years from the date the credit is given.
(Ord. 852, passed 10-4-01)

§ 36.52 SEGREGATION AND USE OF REVENUE.

All funds derived from the system development charge are to be segregated by accounting practices from all other funds of the city. The system development charge calculated and collected shall be used for no purpose other than those set forth in § 36.45 of this subchapter.
(Ord. 852, passed 10-4-01)

§ 36.53 REVIEW PROCEDURES.

(A) *Expenditure review.*

(1) Any citizen or other interested person may challenge an expenditure of system development

charge revenues by filing a written complaint with the city describing with particularity the decision of the city and the expenditure which the person challenges. Such challenges must be filed within two years of the expenditure of the system development charge revenues.

(2) A hearing shall be held by the City Council within 60 days of the filing of the complaint. After providing notice to the challenger, the City Council shall determine whether the expenditure was in accordance with this subchapter and the Oregon Revised Statutes, and may affirm, modify or overrule the decision. If the Commission determines that there has been an improper expenditure of system development charge revenues, the Commission shall direct that a sum equal to the misspent amount be deposited within one year to the credit of the account or fund from which it was spent.

(B) *Methodology review.*

(1) The city shall maintain a list of persons who have made written requests for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least 45 days prior to the first hearing to adopt or amend a system development charge, and the methodology supporting the adoption or amendment shall be available at least 30 days prior to the first hearing to adopt or amend. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city.

(2) The city may periodically delete names from the list, but, at least 30 days prior to removing a name from the list, must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

(3) No legal action intended to contest the methodology used for calculating a system development charge shall be filed after 60 days following adoption or modification of the system development charge ordinance or resolution by the city. Persons shall contest the methodology used for calculating a system development charge only as provided in O.R.S. 34.010 to 34.100, and not otherwise.

(C) *Other review.* Challenges of any other decisions required or permitted to be made by the city under this subchapter or associated resolutions must be filed with the city office within ten days of the date of the decision. The complaint must describe with particularity the decision of the city challenged. The hearing shall be held by the City Council within 60 days of the filing of the complaint. After providing notice to the complainant, the City Council shall determine whether the decision challenged is in accordance with this subchapter and the applicable Oregon Revised Statutes, and may affirm, modify, or overrule the decision.
(Ord. 852, passed 10-4-01)

CHAPTER 37: EMERGENCY SERVICES

Section

37.01	Definition
37.02	Responsibilities and duties
37.03	Management of services
37.04	City employees in emergency situations

(C) The City Council shall delegate responsibility and authority for the management of emergency services.

(D) The City Council shall make appropriate decisions on the city government's responses to an emergency situation, assistance to victims and recovery program.

(Ord. 693, passed 9-5-85)

§ 37.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY SERVICES. Measures for the mobilization, organization and direction of the civilian population and necessary support agencies to prevent or minimize the effects of fire, flood, earthquake and epidemic, as well as the effects of a nuclear war or any subversive activities against the populace, community, industrial plants, facilities and other installations.

(Ord. 693, passed 9-5-85)

§ 37.03 MANAGEMENT OF SERVICES.

(A) The City Administrator is delegated the authority and responsibility for the management of emergency services.

(B) The City Administrator may delegate responsibilities and authority for tasks and tactical decisions to persons appointed to serve various roles in the emergency services management team, including appointment of an emergency services advisor.

(C) Duties and responsibilities of the Administrator or designee for the management of emergency services include:

(1) Obtaining and utilizing cooperation of city officials, citizens and businesses in the preparation of the emergency operation plan;

(2) Assisting in the preparation, updating, implementation and testing of all emergency operation plans;

§ 37.02 RESPONSIBILITIES AND DUTIES.

(A) The City Council shall have a municipal emergency operating plan developed. This plan shall provide for the effective mobilization of all resources of the municipality, both private and public.

(B) The City Council shall adopt ordinances and resolutions necessary to implement the emergency operation plan.

(3) During periods of emergency, directing and coordinating the services of all municipal forces;

(4) During periods of emergency, obtaining vital supplies and equipment needed for the protection of life and property of the people;

(5) Advising county, state, federal and emergency service agencies of local emergency needs;

(6) Coordinating with emergency service agencies, the provision of emergency services in the Upper Willamette area, commensurate with the city's ability to do so; (The coordination shall be guided by O.R.S. Chapter 401 and the Disaster Plan for the county.)

(7) Advising the Council on appropriate measures that might mitigate the effects of natural or manmade disasters; and

(8) Educating the citizens of the city regarding emergency events, warning systems and emergency preparedness.
(Ord. 693, passed 9-5-85)

§ 37.04 CITY EMPLOYEES IN EMERGENCY SITUATIONS.

City employees and volunteers are to make themselves readily available for assignment upon notification of an emergency situation.
(Ord. 693, passed 9-5-85)