

CITY OF NEWPORT

ORDINANCE NO. 2094

AN ORDINANCE REPEALING AND RE-ENACTING
CHAPTER 12.05 OF THE NEWPORT MUNICIPAL CODE
PERTAINING TO LOCAL IMPROVEMENT DISTRICTS
(Newport File No. 4-CP-14)

Summary of Findings:

1. The City of Newport Charter provides that the City has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant.
2. The above referenced grant of power has been interpreted as affording the City all legislative power under the home rule provisions of the Oregon Constitution.
3. Within the scope of such authority, the Newport City Council has determined that the existing provisions of Chapter 12.05 of the Newport Municipal Code pertaining to the establishment of Local Improvement Districts (LIDs) are in need of revision because they are outdated and ineffective. The existing LID code provisions were adopted on June 18, 2007 with Ordinance No. 1924.
4. City secured a Transportation Growth Management (TGM) Grant from the Oregon Department of Transportation (ODOT) in June of 2014 to, among other things, obtain technical assistance in evaluating and updating its LID code.
5. An intergovernmental agreement between the City of Newport and ODOT was executed in April of 2015 and ODOT subsequently hired the consulting firm FCS Group to assist with this effort.
6. A Technical Advisory Committee (TAC) of internal and external stakeholders was formed to assist the consultant, and the TAC met to review draft code amendments on July 6, 2015, September 14, 2015, January 11, 2016 and February 17, 2016.
7. The Newport Planning Commission met in work session to review the draft code amendments on November 9, 2015, November 23, 2015, and December 14, 2015 and met in regular session on March 28, 2016 to provide their final comments.
8. On balance, the code amendments address deficiencies in the existing code and provide a clear, understandable process for how LIDs are to be administered and implemented. Further, the amendments are in line with policies the City adopted into its Comprehensive Plan with Ordinance No. 2093 that provide guidance on how LIDs can be best utilized as an infrastructure financing tool.

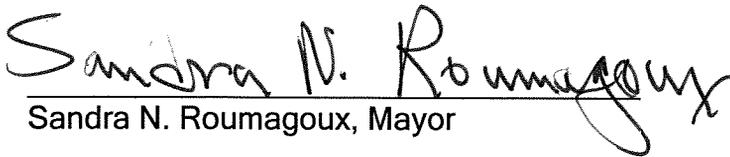
THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Chapter 12.05 of the Newport Municipal Code, adopted by Ordinance No. 1924, is repealed and re-enacted as shown in the attached Exhibit "A."

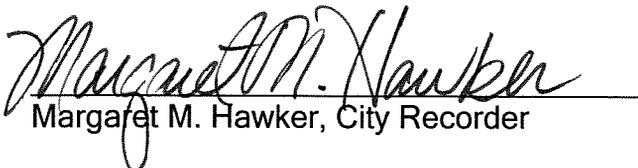
Section 2. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: May 2, 2016.

Signed by the Mayor on May 5, 2016.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney

CHAPTER 12.05 LOCAL IMPROVEMENT DISTRICTS

- 12.05.005 Definitions
- 12.05.010 Initiations of Local Improvement Districts
- 12.05.015 Preliminary Engineer's Report
- 12.05.020 Council's Action on Engineer's Report
- 12.05.025 Notice of Hearing on District Formation
- 12.05.030 Hearing on District Formation
- 12.05.035 Final Plan and Specifications
- 12.05.040 Construction
- 12.05.045 Costs Included in Assessment
- 12.05.050 Method of Assessment
- 12.05.055 Alternative Methods of Financing
- 12.05.060 Final Assessment
- 12.05.065 Notice of Assessment
- 12.05.070 Payment
- 12.05.075 Apportionment of Liens upon Partition
- 12.05.080 Lien and Foreclosure
- 12.05.085 Errors in Assessment and Calculations
- 12.05.090 Abandonment of Proceedings
- 12.05.095 Curative Provisions
- 12.05.100 Reassessment
- 12.05.105 Remedies
- 12.05.110 Interpretation and Coordination with State Law
- 12.05.115 Confidentiality
- 12.05.120 Appeals

12.05.005 Definitions:

The following definitions apply unless inconsistent with the context:

"Benefitted Property" means a property that is expected to be enhanced in value after an LID improvement is constructed, including: properties that are adjacent to an LID improvement; and properties that are proximate to an LID improvement. Benefiting properties will experience enhanced property value from improved accessibility, and improved urban services that result from an LID project.

"Chronic Disrepair" means a failing condition of public infrastructure that is deemed by the city to be beyond its useful life or failing in a manner that has necessitated unplanned public investment exceeding two times per year.

"Emergency condition" means public infrastructure that is failing and poses imminent risk to the health and safety of

residents, visitors, and/or businesses, including infrastructure conditions deemed by the city to be in a state of chronic failure.

“Local Improvement” has the meaning given under ORS 310.140 (9) (a) means a capital construction project or part thereof, undertaken by a local government, pursuant to ORS 223.399, or pursuant to a local ordinance or resolution prescribing the procedure to be followed in making local assessments for benefits from a local improvement upon the lots that have been benefited by all or part of the improvement:

- 1) That provides a special benefit only to specific properties or rectifies a problem caused by specific properties; and
- 2) The costs of which are assessed against those properties in a single assessment upon the completion of the project.

“Local Improvement District (LID)” means the area determined by the council to be specially benefited by a local improvement, within which properties are assessed to pay for the cost of the local improvement.

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

“Non-Remonstrance Agreement” means a written agreement with the city, executed by a property owner or the owner’s predecessor in title, waiving the right of an owner to file a remonstrance against formation of an LID to fund identified public infrastructure improvements.

“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 role in the office of the County Assessor.

“Remonstrance” means a written objection to the formation of an LID filed by an owner of property within a proposed LID.

12.05.010 Initiation of Local Improvement Districts

A. The council by motion or on petition of the owners of 75 percent of the property benefited by the proposed public improvement may direct that a preliminary engineering report be prepared to assist the council in determining whether a local improvement district should be formed to pay all or part of proposed street, sewer, sidewalk, drainage and/or other public improvements.

B. When initiating an LID without petition by property owners, the city council shall consider the following factors:

1. Nature of the area benefited, including its existing condition and the extent to which the affected properties will benefit from the proposed public improvements.
2. The percentage of properties within the benefit area that have prerecorded non-remonstrance agreements or have owners that favor formation of an LID.
3. Whether or not the public improvements address existing or potential health and safety risk to city residents, businesses, employees or visitors; and/or addresses infrastructure in a state of chronic failure.
4. Ability to leverage alternative methods of funding from existing sources. For LIDs in developed residential areas, the aggregate assessment amount within a prospective LID should be no more than 10% of the assessed value of properties within the boundaries of the proposed district. The aggregate assessed value may be higher for other types of LIDs, such as developer initiated districts; however, in no case should it exceed 50% of the assessed value of the affected property.
5. Project cost contingencies and related construction risk factors, such as the need to acquire new public right-of-way, topographic challenges, or environmental issues.
6. The priority of the project per adopted public facility plans or capital improvement programs.

C. In the consideration of any of the above mentioned factors, a council initiated LID should have a reasonable chance of being self-financing, with adequate reserves to ensure that payments are made on bonds/loans, regardless of the property owners repayment.

D. When a potential LID project is deemed by the city engineer or community development director to meet one or more of the factors listed in this section, a council initiated district may be advanced by the council through a resolution requesting that a preliminary engineering report on LID formation be prepared.

12.05.015 Preliminary Engineer's Report

- A. The preliminary engineer's report shall contain:
1. A full description of the project and its boundaries.
 2. A description of each parcel of land specially benefited, including the name of the record owner of the parcel.
 3. An estimate of the probable cost of the project, including property acquisition, design, construction, engineering, legal, administrative, interest or other costs.
 4. A recommendation as to what portion of the total costs of the project should be paid by specifically benefited property.
 5. A recommendation of a method of assessment, together with an estimate of the cost per unit to specially benefited property.
 6. A recommendation whether to proceed with formation of the local improvement district.

12.05.020 Council's Action on Engineer's Report

- A. After the engineer's report has been filed with the city recorder, the council may thereafter by motion approve the report, request that staff reassess elements of the report, require the engineer to supply additional or different information for such improvements, or it may abandon the improvement.

12.05.025 Notice of Hearing on District Formation

- A. Unless all owners of specially benefited property have petitioned for formation of the local improvement district and waived the right of remonstrance, the city shall provide notice to property owners of a council hearing on the proposed district by submitting a notice in a newspaper of general circulation within the town and by mailing notice to the owner's address listed in the county tax records. The city may provide additional notice.
- B. Within ten (10) business days of the filing of the report required by NMC 12.05.015 the recorder shall cause a

notice to be published twice in a newspaper of general circulation within the city setting out the following:

1. That a written project report for a proposed LID is on file and is available for examination at City Hall;
2. The date said report was filed;
3. The estimated probable cost of the proposed local improvement or the actual cost of the improvement if it has been completed;
4. A description of the proposed improvement district and that a map of the proposed district is available for examination at City Hall;
5. The time and place of the hearing required by NMC 12.05.030;
6. A statement that written and oral testimony submitted by any person will be considered at such hearing; and
7. That property owners wishing to remonstrate against the formation of the proposed district must submit their remonstrance in writing and file the remonstrance with the city recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.

C. Not less than ten (10) days prior to the hearing required by NMC12.05.030, mail to each property owner designated in the written engineering report a notice stating:

1. The information set forth in Subsection B of this section;
2. The proposed method of assessment;
3. The estimated amount of the assessment for each lot or portion thereof owned by the owner and whether the assessments are being levied prior to construction based upon estimates of project cost or after construction based upon known costs; and
4. A statement that all remonstrances must be in writing and filed with the city recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.

- D. Post a copy of the preliminary map of the proposed improvement district at City Hall.

12.05.030 Hearing on District Formation

- A. After the engineer's report, as submitted or modified, has been approved or accepted by city council resolution, the council shall hold a public hearing on the proposed improvement and formation of the district and consider oral and written testimony, as well as remonstrances. Such hearing shall be held after the receipt of the engineering report described in NMC 12.05.015 but not less than fifteen (15) days after the date of the second publication of notice.
- B. If property owners owning one half or more of the property area within the district to be specially assessed remonstrate against the improvement, the council shall suspend formation of the district for a period of not less than six (6) months. This provision shall not apply if the council unanimously declares the LID improvement to be needed because of an emergency or to remedy infrastructure in chronic disrepair. If a property has multiple owners, a remonstrance by an owner shall be considered a fraction of a remonstrance to the extent of the interest in the property of the person filing the remonstrance.
- C. All remonstrances must be in writing and filed with the city recorder by the end of the public hearing. Remonstrances may be withdrawn any time prior to the close of the hearing.
- D. If insufficient remonstrances are filed to prevent the formation of the local improvement district, the council shall have discretion whether or not to form the district and proceed with the public improvement.
- E. Based on testimony at the hearing, the council may modify the scope of the improvements and/or the district boundary. The council may use any reasonable method of determining the extent of the local improvement district based on the benefits of the proposed local improvement(s). If any modifications approved by council include additional property or result in a likely increase in assessments on any property, the city shall hold another hearing and provide notice of the additional hearing in the same manner as it provided notice of the initial hearing.

- F. A decision to accept the engineer's report, form the local improvement district and proceed with making the local improvements shall be by resolution. This resolution shall at a minimum address the following:
1. Create the local improvement district and establish its boundaries;
 2. Determine generally the time for commencing and the manner of construction;
 3. Establish an account for the receipt and disbursement of monies relating to the project; and
 4. Establish the method for allocating the costs associated with the project.

12.05.035 Final Plan and Specifications

- A. After a council decision to form the district and proceed with the local improvement(s), the city shall obtain necessary rights-of-way and easements and for development of a final plan and specifications prior to publishing contract solicitation documents.
- B. After developing the final plan and specifications, the city engineer shall prepare a new estimate of costs. If the new estimate exceeds the original cost estimate by 10% or more at the time of its hearing or if the city engineer deems there to be significant changes in the project as a result of the additional unanticipated work, a supplemental engineer's report shall be prepared and submitted to the council which shall hold a hearing on the revised engineer's report. The hearing shall be noticed in the same manner as the original hearing, and property owners shall have the right to submit a remonstrance based on the revised engineer's report. The council shall follow the same procedure and standards applicable to the original hearing.

12.05.040 Construction

- A. Construction work on the local improvement(s) may be by the city, by another government agency, by contract with a private contractor, or by any combination of those entities. Any contracting shall be in accordance with the city's public contracting rules.

- B. Construction may proceed if the contract with a private contractor, or the final scope and budget for projects constructed by a governmental agency, or any combination of the above, varies less than 10% from the final plan and specifications. If the scope and budget vary more than 10%, an additional hearing must be held. If an additional hearing is held, construction may proceed after a council decision accepting the revised engineer's report and directing that the local improvement(s) be constructed.

12.05.045 Costs Included in Assessment

The costs and expenses that may be assessed against specially benefited property include but are not limited to:

- A. The costs of property, right-of-way or easement acquisition, including the cost of any condemnation proceedings.
- B. Engineering and survey costs.
- C. Costs of construction and installation of improvements, including but not limited to: streets, curbs, sidewalks gutters, catch basins, storm water improvements, driveways, accessways, lighting, traffic control devices, painting, and striping, surface water management facilities, water and sewer lines, lift stations, and fire hydrants.
- D. Costs of preliminary studies.
- E. Advertising, legal, administrative, notice, supervision, materials, labor, contracts, equipment, inspection and assessment costs.
- F. Financing costs, including interest charges.
- G. Attorney fees.
- H. Any other necessary expenses.

12.05.050 Method of Assessment

- A. The Council shall:
 - 1. Use a fair and reasonable method for determining the extent of the improvement district boundaries that is consistent with the benefits derived.

2. Consider fair and reasonable methods for apportioning the actual or estimated costs of the improvement among benefited properties including but not limited to those methods identified in NMC 12.05.050(D).
- B. The Council may:
1. Authorize payment by the City of all or any part of the cost of such improvements; provided that the method selected creates a reasonable relation between the benefits derived by the property specially benefited and the benefits derived by the City as a whole.
 2. At any time prior to the effective date of the resolution levying the assessments for any improvement district, modify the method adopted in the resolution forming the improvement 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 benefited.
 3. 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.
- C. In establishing a fair and reasonable method for apportioning the actual or estimated cost of local improvements among benefited properties, the Council shall rely upon the following guidelines:
1. Individual property owners shall pay for public improvements specially benefiting their property. The determination of benefit shall be made irrespective of whether the property is vacant or the owner elects to connect to the local 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.
 2. Costs of the improvement to be borne by the City shall be excluded from the assessment before apportionment. The City will pay the cost of:

both sides of the street is unnecessary or not feasible; the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the parcels on the opposite side of the street from the sidewalk.

3. Improvement Costs of Surface Water Management.
The cost to be assessed shall be apportioned to each parcel within the improvement district on the basis of its land area that contributes to or otherwise directly benefits from the City's drainage system.

Exhibit 12.05.050-1 Assessment Method	LID Improvement Type			
	Street/ Sidewalk	Sewer	Water	Stormwater
Existing Assessed Value	✓	✓	✓	✓
Expected Change in Assessed Value	✓	✓	✓	✓
Gross Land Area	✓	✓	✓	✓
Linear Frontage Along Improvement	✓	✓	✓	✓
Existing Trip Generation	✓	-	-	-
Expected Change in Trip Generation	✓	-	-	-
Existing Sewer Connections	-	✓	-	-
Expected Change in Sewer Connection	-	✓	-	-
Existing Water Meter Connections	-	-	✓	-
Expected Change in Water Meter Connections	-	-	✓	-
Existing Impervious Surface Area	-	-	-	✓
Expected Change in Impervious Surface Area	-	-	-	✓
Legend				
<ul style="list-style-type: none"> ✓ Primary Assessment Method ✓ Secondary Assessment Method - Tertiary Assessment Method 				

4. Improvement Costs of Water and Sewer Lines.
 - i. The properties specially benefited by a sewer main or water pipe shall bear the cost of the system up to and including eight inches of pipe diameter. These costs shall be apportioned to each parcel on the basis of a cost per square foot of service area, determined by dividing the total system cost by the total service area.
 - ii. In addition to main or pipe costs, each property benefited by a sewer main or water pipe shall be considered to have at least one service line connection point. If more than one service line connection point is provided for a benefited parcel, it shall be assessed for the actual number of service line connection points. All costs related to the service lines, including overhead costs, shall be divided by the total number of service line connection points, to determine the cost per service line connection point.
5. Corner Lots. For street, sewer, water and/or stormwater project LIDs that assess costs to properties based upon linear frontage, corner lots may be exempted from an assessment for the first 100 feet of frontage on the side abutting a local improvement, or for the full length of the side abutting the improvement, whichever is shorter, if one or more of the following conditions exist and the City Council grants an exemption:
 - i. The local improvement is required to serve a new subdivision or new development, the corner lot is located outside the subdivision or development, and the corner lot will receive no benefit from the local improvement for which the assessment is levied; or
 - ii. The corner lot has two sides abutting the local improvement for which the assessment is levied and is being assessed for the full frontage of one side abutting the improvement; or
 - iii. The Council determines the Corner Lot receives no benefit from the local improvement for which the assessment is levied and the property has been previously assessed for the same type of local improvement on the side not abutting the local improvement for which the assessment is levied.

The City Council need not grant a Corner Lot exemption if the Council determines the property will receive a benefit from the local improvement for which the assessment is being levied.

6. **Minimum Frontage.** All lots may be assessed for an equivalent front footage of no less than 60 feet.
7. **Benefited Property.** A benefited property may be defined as one which is adjacent to any street, easement or right of way on which a local improvement is installed or which reasonably is capable of connecting to, or directly benefiting from, the improvement.
8. **Assessment Alternative.** Assessment alternatives that vary from those listed in this section may be identified within the engineer's report. A weighting method may be considered among multiple alternatives to determine a hybrid alternative assessment.
9. **Equal Assessments.** If property owners of all or 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 in equal amounts.

12.05.055 Alternative Methods of Financing

A. The Council may allocate a portion of the cost of such improvement from the funds of the city. The council may base this on topographic concerns, the physical layout of the improvement, unusual or excessive public use of the improvement, or other characteristics. The amount assessed against all property specially benefited will be proportionately reduced.

B. The council may use other means to finance, in whole or in part, the improvements, including but not limited to: federal or state grants-in-aid, sewer or other types of utility charges, urban renewal funds, revenue or general obligation bonds.

12.05.060 Final Assessment

A. After final acceptance of the public improvements by the city, the city engineer shall prepare a final report that describes the completed improvement, lists the total costs with a breakdown of the components of the total cost, and proposes a method of assessment. The city engineer shall prepare the proposed assessments for each lot within the improvement district, file the assessments with the finance director, and submit a proposed assessment resolution to the city council. The city engineer shall provide an explanation of any difference in the proposed cost allocation or method of assessment previously proposed.

- B. The city council shall hold a hearing on the final engineer's report and at that hearing shall establish by resolution the method of assessment and amount to be assessed against each specially benefited property.
- C. The council in adopting a method of assessment of the costs of the improvement(s) may use any method of apportioning the sum to be assessed that the council determines to be just and reasonable among the properties in the local improvement district.
- D. After the council adopts the assessment resolution, the city will schedule a council hearing and mail notice of the proposed assessments to each owner of assessed property within the district at least 10 days before the hearing. The notice shall contain:
 - 1. The name of the owner and a description of the property to be assessed.
 - 2. The amount of the assessment.
 - 3. The proposed allocation and method of assessment.
 - 4. The date, time and place of the council hearing on objections to the assessment, and the deadline to submit written objections before the hearing.
 - 5. A statement that the assessment as stated in the notice or as modified by the council after the hearing will be levied by the council, charged against the property, and be due and payable.
- E. Any mistake, error, omission or failure relating to the notice shall not invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been provided to the property owner, or if owner cannot be located, notice is published once a week for two consecutive weeks in a newspaper of general circulation in the city.
- F. The council shall hold the public hearing and consider oral and written objections and comments. After the hearing, the council shall determine the amount of assessment to be charged against each property within the district according to the special benefits to each

property from the improvement(s). The final decision spreading the assessment shall be by resolution.

- G. If the initial assessment has been made on the basis of estimated cost, and, upon completion of the work, the cost is found to be greater than the estimated cost, the council may make a deficit assessment for the additional cost, provided, however, the council may not make a deficit assessment for more than ten (10) percent of the initial assessment. Proposed assessments upon the respective lots within the special improvement district for a proportionate share of the deficit shall be made, notices shall be sent, opportunity for objections shall be given, any objections shall be considered, and a determination of the assessment against each particular lot, block, or parcel of land shall be made in the same manner as in the case of the initial assessment, and the deficit assessment shall be spread by resolution.
- H. If assessments have been made on the basis of estimated cost and upon completion of the improvement project the cost is found to be less than the estimated cost, the council shall ascertain and declare the same by resolution, and when so declared the excess amounts shall be entered on the city lien record as a credit upon the appropriate assessment. Thereafter, the person who paid the original assessment, or that person's legal representative or successor, shall be entitled to repayment of the excess amount. If the property owner has filed an application to pay the assessment by installment, the owner shall be entitled to such refund only when such installments, together with interest thereon, are fully paid. If the property owner has neither paid such assessment nor filed an application to pay in installments, the amount of the refund shall be deducted from such assessment, and the remainder shall remain a lien on the property until legally satisfied.

12.05.065 Notice of Assessment

Within 10 days after the effective date of the resolution levying the assessments, the finance director shall send by first-class mail to the owner of the assessed property a notice containing the following information:

- A. The date of the resolution levying the assessment, the name of the owner of the property assessed, the amount

of the specific assessment and a description of the property assessed.

- B. A statement that application may be filed to pay the assessment in installments in accordance with the provisions of this chapter.
- C. A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within 30 days of the date of the notice and, if unpaid on that date, will accrue interest and subject the property to foreclosure.

Supplementary notice of assessment in form and content to be determined by the finance director may also be published or posted by the finance director.

12.05.070 Financing of LID Program

- A. The City will account for the payment of LID formation costs, construction costs and the retirement of debt incurred by the City in connection with local improvement projects on which the payment of assessments has been deferred under this Ordinance.
- B. The initial funds for the LID program will be taken from fund transfers and/or debt approved by the City Council and shall be allocated to LID projects in a manner that takes into account expenditure restrictions. LID program financing by the City will be secured by property liens using debt instruments such as revenue bonds, loans, inter-fund loans, etc. with a debt reserve that equates to 12-months of combined interest/principal obligations on outstanding LID fund balances.
- C. Deferments shall be granted on a pro rata or otherwise equitable basis, depending upon individual assessment amounts for applications received within the time period set under Section 12.05.075(A) for submittal, to the extent that Program funds are available.

12.05.075 Payment

- A. Unless an application is made for payment in installments as provided by this section, assessments shall be due and payable in full within 30 days after the date the notice of assessment is mailed, and if not so paid, shall bear interest

at the rate of 9 percent per year. The city may proceed to foreclose or enforce collection of the assessment lien if the amount is not paid in full within 90 days of the date the notice of assessment is mailed.

- B. Any time within 30 days after the notice of assessment is mailed or within 30 days of resolution of any writ of review proceeding challenging the assessment, the owner of the property may apply to pay the assessment in ten equal annual installments, with the first payment to be paid within 30 days of the determination by the finance director of the amount of the annual payment. This option for an owner to make installment payments is limited to assessments in excess of \$500, unless a payment plan for a smaller amount is authorized, in writing, by the city manager. The installment payment application shall state:
 - 1. That the applicant waives all irregularities or defects, jurisdictional or otherwise, in any way relating to the assessment.
 - 2. State that the applicant understands the terms and conditions of the city's payment policies including the penalties for nonpayment.
- C. On receipt of an application for payment in installments, the finance director shall determine whether the city will finance the payments internally or issue a bond or obtain a loan for the amount financed. The interest rate will be set at the interest rate charged to the city for the bond or the loan, plus 2%. If the city finances the payments internally, the interest rate shall be at the interest rate payable to the city if it had invested the money in a local government pool account, plus 3%. The finance director shall then notify the property owner of the payment amounts and due dates.
- D. If any installment payment is not paid within one year of the due date, the council shall adopt a resolution declaring the entire amount of principal and interest due and payable at once.
- E. The entire amount of principal and accrued interest shall be payable on any sale of the specially assessed property or change in its boundaries.
- F. There shall be no penalty for early payment or early retirement of LID principal amounts.

12.05.080 Lien and Foreclosure

- A. The finance director shall enter in the city lien docket:
 - 1. A statement of the amounts assessed upon each particular lot, parcel of land or portion thereof;
 - 2. A description of the improvement;
 - 3. The names of the owners; and
 - 4. The date of the assessment resolution.
- B. On entry in the lien docket, the amount entered shall become a lien and charge upon the properties that have been assessed for such improvement.
- C. All assessments liens of the city shall be superior and prior to all other liens or encumbrances on property in accordance with ORS 94.709.
- D. The city may collect any payment due and may foreclose the liens in any manner authorized by state law.

12.05.085 Errors in Assessment Calculations

Claimed errors in the calculation of assessments shall be called to the attention of the finance director who shall determine whether there has been an error. If the finance director determines that there has been an error, the matter shall be referred to the council for an amendment of the assessment resolution. On amendment of the resolution, the finance director shall make necessary corrections in the city lien docket and send a correct notice of assessment by certified mail.

12.05.090 Abandonment of Proceedings

The council may abandon and rescind proceedings for improvements at any time prior to the final completion of the improvements. No assessment shall be imposed if improvements are not completed.

12.05.095 Curative Provisions

No improvement assessment shall be rendered invalid by a failure of any incompleteness or other defect in any

engineer's report, resolution, notice, or by any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps required by this chapter, unless the assessment is unfair or unjust. The council shall have the authority to remedy or correct any matter by suitable proceedings and action.

12.05.100 Reassessment

A. Whenever all or part of an assessment or reassessment for any local improvement is declared void, set aside for any reason, not enforced by a court or the council determines the assessments should be adjusted, the council may make a new assessment but shall not be required to repeat any portion of the procedure properly completed.

B. The reassessment procedures for making the new assessment will follow the same procedures used for the initial assessment under NMC12.05.050 and 12.05.085. The new assessment is not limited to the amounts included in the original assessments or to the property included within the original assessment if the council finds that additional property is specially benefited and subject to assessment.

C. Credit must be allowed on the new assessment for any payments made on the original assessment as of the date of payment. Interest on the original assessments must be included in the new assessment to the extent the new assessment includes amounts also included in the original assessment. The council will include interest as part of the overall assessable project cost. The amount will be based on the construction financing interest rate in effect and applicable to the district at the time of the original proceedings on moneys paid on the construction or financing of the project.

12.05.105 Remedies

Actions of the council under this chapter are reviewable only by writ of review.

12.05.110 Interpretation and Coordination with State Law

The provisions of this chapter shall be interpreted consistent with state law relating to local improvement districts and Bancroft bonding. When state law authorizes local governments to adopt standards and procedures different from those specified in the statutes, the city may comply with

either this chapter or state statutes. To the extent that any standard or procedure is not governed by this chapter, the city shall comply with state statutes.

12.05.115 Confidentiality

To the maximum extent possible under the law, the applications, records and other information relating to deferments shall be kept confidential by the City.

12.05.120 Appeals

Owners of property against which an assessment or reassessment for local improvements has been imposed may seek a review of any council decision under the circuit court writ of review provisions of ORS 34.010 to 34.102.