

ORDINANCE NO. 249-20

AN ORDINANCE REPEALING AND REPLACING LOCAL IMPROVEMENT DISTRICTS AND SPECIAL ASSESSMENTS CHAPTER NINE TO TITLE 1 OF IRRIGON MUNICIPAL CODE FOR THE CITY OF IRRIGON, OREGON

BEFORE THE CITY COUNCIL OF THE CITY OF IRRIGON, OREGON

Repealing Chapter Nine of Title 1 of the Irrigon Municipal Code in its entirety and adopting Chapter Four to Title 7 of the Irrigon Municipal Code for the City of Irrigon, Oregon creating an Ordinance Establishing Local Improvement Districts and Special Assessments.

The Irrigon City Council Finds:

WHEREAS, the City Charter authorizes the City of Irrigon to exercise authority within the city over matters of City concern; and

WHEREAS, state law authorizes the establishment of local improvement districts and assessment of taxes for payment of the same, in accordance with Oregon Revised Statutes Chapters 223 and 310; and

WHEREAS, the City of Irrigon City Council wishes to encourage and promote public improvements across the City; and

WHEREAS, the City is committed to ensuring public/private partnerships for such improvements which enhance growth and livability; and

WHEREAS, the City published proper public and agency hearing notice of this proposed ordinance as required by City Development Code and Oregon State law; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRRIGON ORDAINS AS FOLLOWS:

Section 1. Title of Ordinance

This Ordinance shall be known, and may be cited, as "Local Improvement District (LID) Ordinance".

Section 2. Purpose

The purpose of this Chapter is to govern the creation of local improvements and the payment of special assessments as permitted by ORS Chapters 223 and 310. To the extent that this Chapter does not address matters relevant to the purpose of this chapter, the Bancroft Bonding Act (ORS 223.205 to 233.295) shall control.

Section 3. Definitions

The following definitions shall apply unless the context clearly indicates or requires a different meaning:

ACTUAL COST. All direct or indirect costs incurred by the City to deliver goods or services or to undertake a capital construction project. The actual cost of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum, fixed or variable amount. It includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

APPORTIONMENT. To divide and allocate the cost of the local improvement proportionally by real property parcel or lot according to an established plan.

BANCROFT BONDING ACT. As described in the Oregon Revised Statutes Chapter 223.205 to 223.295 as now enacted or amended hereafter.

BENEFITTED PROPERTY. All property specially benefitted by the local improvement portion of a project, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the assessable cost of the project between the properties determined to be specially benefitted therefrom.

ESTIMATED ASSESSMENT. With respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the city's estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the actual costs to the property. It shall be determined by excluding from estimated actual costs the estimated financing costs associated with any bonds issued to accommodate the payment of the assessment in installments and including in estimated actual costs the estimated financing costs associated with interim financing of the local improvement.

FINAL ASSESSMENT. With respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property.

FINANCING. All costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement. Financing may include the salaries, wages and benefits payable to employees of the city to the extent reasonably allocable to the work or services performed by the employees in connection with the local improvement or any part thereof; provided, that the city establishes a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

Financing costs that are to be incurred after the levy of a final assessment may be included, whether directly in the final assessment or in the interest rate charged on installment payments, based on the City's reasonable estimate of the financing costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

LOCAL IMPROVEMENT. A capital construction project or part thereof that provides a special benefit to or rectifies a problem caused by specific real properties, including but not limited to:

- (1) The widening, construction, improvement, repair or reconstruction of any right-of-way;
- (2) The widening, construction, improvement, repair or reconstruction of any sidewalks, curbs, gutters and bicycle ways;
- (3) The installation, reconstruction or replacement of street lights;
- (4) Constructing, reconstructing or repairing any water, sanitary or storm sewer or water facility, including but not limited to mains, laterals, water detention or quality features, dams and dikes;
- (5) Construction, reconstruction or repair of off-street parking facilities;
- (6) Construction, reconstruction, improvement or repair of any park, playground or recreational facility;
- (7) Underground placement of utilities;
- (8) The acquisition of real property or an interest in real property for any such improvement;
- (9) Any other improvement for which an assessment is authorized by state law.

LOCAL IMPROVEMENT DISTRICT or LID. The geographical area determined by City Council to be specially benefited by the local improvement within which properties may be assessed to pay the cost of the local improvement.

LOT. A lot, block, or parcel of land.

NOTICE. Notice as required by the Chapter is accomplished by posting the notice in the City Hall, posting on the properties to be benefited, by newspaper publication, by personal delivery, or mailing a copy of the notice by first class mail with a certificate of mailing, addressed to the

last known address of the person currently assessed for the properties to be benefitted as shown by the records of the Morrow County and

OWNER. The owner or owners of the title to real property, or the contract purchaser of real property, of record and as shown on the last available complete assessment roll in the office of the County Assessor, or the owner's agent authorized in writing to act for the owner. In the case of ownership by a corporation, limited liability company, partnership or similar entity, the person duly authorized by the entity shall be deemed to be the owner for purposes executing any petition, waiver, remonstrance, installment payment agreement or other document.

PRIME RATE. The prime rate is the Federal Funds Target Rate plus 3%, as published in the Wall Street Journal annually.

PROJECT. Any capital construction work reasonably necessary involving a local improvement, which may include, but is not limited to: a street, alley, sidewalk, street light, underground utility, sanitary or storm sewerage facilities, water utility facilities, off-street parking facility, flood control facility, park or neighborhood recreation facility.

REMONSTRANCE. The written objection to a proposed local improvement district or the assessment levied thereon, to be made in a manner hereinafter provided.

SOLE SUBDIVISION DEVELOPMENT. A development in which land owned by a single owner, whether an individual, single group of individuals, business entity, or single group of business entities, is divided into four (4) or more lots within a single calendar year.

TOTAL ASSESSABLE COST. That portion of the local improvement cost which is to be apportioned and assessed as a single assessment against each benefitted property

TOTAL PROJECT COST. The total cost of constructing a project involving a local improvement, including but not limited to, engineering, interest on warrants, advertising, providing notice to benefitted property owners and overhead; and shall include all assessable costs of the local improvement.

UNDEVELOPED REAL PROPERTY. A single parcel of land, or several contiguous parcels of land in single ownership with an area free of permanent structures, capable of being divided into four or more developable lots.

Section 4. Initiation of LID Formation

A. The Council may declare by resolution that it intends to make a local improvement and direct the City Engineer to make a survey of the improvement and file a written report with the City Manager and in accordance with Section 4(B), shall direct the City Manager to prepare a financial investigation report when:

(1) the Council considers it necessary to require that improvements to a street, sewer, water line, traffic signal, sidewalk, parking, curbing, drain, or other local improvement defined in ORS 223.387 be paid for in whole or in part by special assessment according to benefits conferred; or

(2) owners of 50 percent of the property that will benefit by improvements as defined above request, by written petition that the Council initiate formation of a local improvement district.

A petition for formation shall include:

(a) A general description of the proposed local improvement;

(b) A proposed boundary for the local improvement district, including the address, if one is available, and map and tax lot number of each property proposed to be benefited by the local improvement;

(c) The signature of each of the owners of more than 50% of the lots within the proposed boundary;

(d) The fee, if any, established by the City Council for preparation of the report provided for in subsection (B) of this section.

(3) The City Council shall consider any valid petition submitted pursuant to Section (4)(A)(2), but may,

(a) decline to initiate formation of the local improvement district in its entirety;

(b) may modify the boundaries of the local improvement district as otherwise set forth in the petition and proceed with formation of the same; or

(c) may proceed with formation of a local improvement district after modifying the nature or scope of the public improvement proposed by petition.

(B) The resolution initiating formation of the local improvement district shall direct the City Manager to have a report prepared containing the following information and any other information requested by the City Council or deemed relevant by the City Manager:

(1) A description of the local improvement project and its boundaries based on preliminary project plans and specifications;

(2) A preliminary determination of the feasibility of making the proposed improvement, including an estimate of the actual cost of the proposed local improvement;

(3) A map of the proposed local improvement district with the address and the map and tax lot number or other sufficient description and ownership of each specially benefited property with a brief explanation of why the properties benefit;

(4) The proposed methodology for allocating the improvement project costs among and between the specially benefited properties, together with a description of other funds, if any, proposed to be used; and

(5) The assessed valuation of each property and an estimate of the assessment amount for each lot or portion thereof, with a statement of the amount of outstanding assessments against any lot proposed to be assessed by the improvement.

(C) The City Manager shall have a copy of the report filed in the office of the Finance Officer when completed.

Section 5. LID Formation

(A) After consideration of the City Manager's report required by Section 4(B), City Council may adopt a resolution of intent setting forth its intention to form the local improvement district and make the local improvement, as proposed or as may be modified by the City Council. The resolution of intent shall include:

(1) A description of the local improvement, including its scope and location;

(2) A map of the proposed local improvement district boundary, including the address, map and tax lot and ownership information for each property within the boundary;

(3) An estimate of the actual cost of the improvement;

(4) The proposed methodology for establishing special benefit and levying assessments, the estimated assessment to be levied against each property and a description of funds other than assessments, if any, that may be used to fund the local improvement; and

(5) The location, date and time of a public hearing to be held on formation of the local improvement district.

(B) The City Manager shall give notice of the proposal to form a local improvement district in the manner set forth in Section 3 providing that a hearing will be held to hear objections, if any, to the proposed improvement not less than 21 days after the date of the notice.

The notice must be mailed and posted not less than 10 days prior to the hearing date. In addition to the date, time and location of the hearing, the notice shall include:

(1) A general description of the proposed local improvement and the boundary of the district, including the address of each property proposed to be included;

(2) The estimated cost of the proposed local improvement, the methodology for levying assessments and the estimated assessment for each property. The notice shall note that these are estimates only and that the final assessment may be greater;

(3) A statement that the City Manager report is available for review;

(4) A statement that any interested person may testify or submit written comments on the proposed local improvement district and that any property owner(s) may formally object by submitting a written remonstrance stating the reason for the objection and signed by each owner of the property, which remonstrance must be received by the City Manager no later than 5:00 p.m. on the business day before the public hearing; and

(5) A form for remonstrance as provided and may be obtained at City Hall.

Section 6. Public Hearing and City Council Decision on Formation

(A) At the public hearing, the City Council shall provide a reasonable opportunity for persons to testify and shall consider any written comments received with any remonstrances.

(B) At the conclusion of testimony, the City Council shall adopt an ordinance to:

(1) decline to form the local improvement district as proposed or modified and terminate formation of the same after finding that it is not in the best interests of the City or for other sufficient reason, notwithstanding the filing of remonstrances; or

(2) decline to form the local improvement district if valid remonstrances are received from the owners of more than 65% of the lots that otherwise would be assessed, unless the properties are included in a sole sub-division development for which the property owner has executed a waiver of the right of remonstrance as a condition of subdivision approval.

Notwithstanding this provision and those of Section 7 if it is determined to be in the best interests of the City, Council may instead suspend the formation of the proposed local improvement district for not less than six months; or

(3) approve the project and district formation as proposed or as modified in the City Council's discretion. The ordinance shall specify whether an estimated assessment shall be levied and the amount thereof to be levied against each specially benefited property as provided for in Section 4(B)(5). If the City Council modifies the proposed district or improvement terms that results in any property to be subject to a substantially increased proposed assessment, Council shall continue the public hearing and direct that written notice of the modification be sent to the owners in the proposed district, unless all the affected owners waive objection to the proposed increase at the hearing; or

(4) Continue the hearing to a time and date certain for further consideration, not to exceed 90 days.

Section 7. Remonstrances

(A) To be valid, remonstrances shall be in writing and must include an objection to the local improvement district and a brief statement as to the reasons for the objection. It shall be signed by each of the owners of the property.

(B) Only remonstrances actually received by the City Manager by 5:00 p.m. on the business day before the public hearing shall be counted. Remonstrances shall not be counted if the property is subject to a non-remonstrance agreement.

(C) A remonstrance may be withdrawn if each owner does so in writing prior to the close of the hearing.

(D) If valid remonstrances constituting more than 65% of the lots within the proposed district are timely received, the City Council may either terminate formation or suspend formation for not less than six months. Notwithstanding the foregoing, the City Council may by ordinance override the remonstrances and approve formation if by unanimous vote the City Council determines that the proposed local improvement is immediately needed to address a threat to public health, safety or welfare.

Section 8. Construction of the Local Improvement

(A) The city may construct the public improvements in whole or in part using its own resources, partner with other government entities, contract with private entities as provided in the city's public contracting rules and state law, or by any combination thereof. The construction plans may modify the local improvement as reasonably necessary to conform to applicable codes or in the exercise of normal and customary project construction judgment. The city may combine the local improvement with a public improvement project as it deems appropriate; provided, that the costs of the local improvement are apportioned or otherwise reasonably attributed to the local improvement district.

(B) City Council in its sole discretion may reject any or all bids, rebid the project, or abandon the local improvement due to failure to obtain qualified or acceptable bids, or bids within the scope of the proposed cost of the improvement. The City Council may levy final assessments for the cost of preparing construction plans and bidding if it determines that the properties in the district were specially benefited.

Section 9. Assessments

(A) The City Council shall conduct a public hearing to consider objections to the estimated assessment, if any, and the final assessment.

(B) Notice of the public hearing on the estimated assessment or final assessment shall be provided in the manner set forth in Section 3 not less than 21 days prior to the hearing and stating that a hearing will be held to hear objections, if any, to the proposed improvement. The notice shall include:

- (1) the name of the owner;
- (2) a description of the property to be assessed;

(3) the estimated or actual cost of the local improvement to be assessed and the amount to be assessed against each property with a description of the methodology for assessment;

(4) a statement that any objections to the proposed assessment may be submitted in writing or orally prior to the close of the public hearing;

(5) that the City Council may modify the proposed estimated or final assessments; and

(6) that at the conclusion of the hearing the City Council intends to enter an ordinance levying assessments which shall constitute a lien on the owner's property.

(C) Final assessments shall be levied based on a report submitted to City Council by the City Manager upon completion of the local improvement project. The report shall include:

(1) The actual cost of the local improvement, less the amount, if any, paid for using funds other than assessments;

(2) The final amount recommended to be assessed for each property based on the methodology approved by the City Council in the formation resolution or ordinance, adjusting for any estimated assessment payments received.

(D) If the initial assessment has been made based on an estimated assessment, and on the completion of work the actual cost is found to be greater than the estimated cost, the City Council shall make a deficit assessment for the actual cost. If an estimated assessment which was greater than the final assessment has been paid, the payor or the payor's assigns or legal representative shall be refunded the difference.

(E) The City Council shall review the estimated assessment or the final assessment report and make any modifications it deems appropriate. City Council shall adopt an assessment ordinance, schedule a public hearing and direct that notice of the proposed estimated or final assessment be provided to the owners within the local improvement district. The ordinance shall specify the payment dates, interest and penalties to be included in any installment payment agreement for final assessments or otherwise applicable to delinquent assessments.

(F) At the public hearing, the City Council shall consider any objections or recommendations received and may modify the estimated or final assessments. The City Council shall adopt an ordinance determining and levying the amount of assessment to be charged against each property. It shall specify the interest, penalties and other payment terms and that the assessment constitutes a charge and lien against assessed properties; for a final assessment, it shall specify the period for payment in installments to be 10 years.

(G) Claimed errors in calculation of assessments shall be called to the attention of the City Manager prior to any payment on account thereof. The City Manager shall check the calculation and report his findings to the City Council. If an error has been made, the City Council shall amend the final assessment ordinance to correct the error. Upon the enactment of an

amendment by the City Council, the Finance Officer shall make the necessary correction in the lien docket and shall send by registered or certified mail to the owner a corrected notice of the assessment.

Section 10. Lien Notice

Within ten days of City Council adoption of an estimated or final assessment, the City Manager shall by first class mail or deliver personally notice to the last known address of the person currently assessed for the properties to be benefitted as shown by the records of the Morrow County, identifying the local improvement for which the assessment is to be made, each lot to be assessed, and the estimated or final assessment for each lot.

In addition, for a final assessment the notice shall state that the owner shall have the right to apply to the city for payment of the final assessment in installments and that failure to execute the installment payment agreement within 30 days of the date of entry in the lien docket shall cause the full amount of the assessment to be immediately due and payable. The notice of a final assessment shall include an installment payment agreement.

Section 11. Lien Record and Foreclosure Proceedings

(1) After the assessment ordinance is adopted, the Finance Officer shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land or portion of land, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket the amounts assessed shall become liens and charges on the lots, parcels of land or portions of land that have been assessed for improvement.

(2) Assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as state law permits. The assessment ordinance shall be recorded at the Morrow County clerk's office.

(3) Thirty days after the date of the assessment ordinance, interest shall be charged at a rate of two percent more than the prime rate. If the owner neglects or refuses to pay installments as they become due and payable, the City may then proceed at once to collect all unpaid installments and to enforce collection thereof, with all unpaid late payment penalties, attorneys fees and administrative charges added thereto, and the city may foreclose or enforce collection of assessment liens as set forth in 223.520, and 223.525.

(4) The city may enter a bid on property being offered at a foreclosure sale. The city bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property.

Section 12. Error in Assessment Calculation

Claimed errors in the calculation of assessments shall be called to the attention of the Finance Officer, who shall determine whether there has been an error. If there has been an error, the

City Manager shall recommend the City Council amend the assessment ordinance to correct the error. On adoption of the amendment, the Finance Officer shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail.

Section 13. Supplemental Assessments

If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvement, the council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The council shall set a time for hearing objections to the supplemental assessment and direct the city recorder to publish one notice of the hearing in a newspaper of general circulation in the city. After the hearing the council shall make a just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens. Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, in accordance with established policies and procedures and in accordance with state law.

Section 14. Installment Payments

The installment payment agreement shall be on a form approved by the city and shall provide:

- (A) The amount of final assessment and a statement of the interest rate and penalties for delinquency.
- (B) A description of the property by lots, blocks, or legal description, and of the local improvement for which payment is required.
- (C) The time to pay the final assessment in full, including any interest or penalties. There shall be no prepayment penalty.
- (D) The due date for the initial payment and subsequent installments and the terms governing delinquencies, including a warning that installment payments, including interest and penalties, not paid within one year of the due date may result in the entire remaining balance being immediately due and payable and that the city shall have all remedies to enforce the obligation as provided by law, including foreclosure.

Subdivisions of four or more lots may, upon request, delay installment principal payments and be subject to interim interest payments only during the LID development, for up to 30 months after adoption of the assessment ordinance. Thereafter, full assessment payments shall be required to be made, regardless of whether home sites are developed.

- (F) That the property owners acknowledge and agrees to pay the final assessment, including interest and penalties, together with an amount determined by the City Council to be sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing any bonds, including but not limited to legal, printing and consultant's fees.

(G) A waiver of all irregularities or defects whatsoever, jurisdictional or otherwise, in the proceedings to cause the local improvement for which the final assessment is levied and in the apportionment of the actual cost of the local improvement.

(H) Such other terms and conditions as the City Manager deem appropriate.

Section 15. Recording and Docket

(A) Any estimated assessment shall be a lien against the property to be charged against each lot until the final assessment is entered. It shall be entered into the lien docket as provided below within 30 days of the adoption of the ordinance levying the estimated assessment.

(B) After expiration of the deadline for the filing of a request for installment payments, the City Manager shall enter into the City lien docket, under separate line items or accounts for each local improvement by name or number:

A description of each lot or parcel of land or other property against which the final assessment is made or which bears or is chargeable for a portion of the actual cost of the local improvement;

With the name of the owner of the property assessed; and

The amount of the unpaid assessment.

The lien docket entries shall be made as of the date of initial determination and levy of the final assessment.

(C) The docket shall stand thereafter as a lien docket as for ad valorem property taxes assessed and levied in favor of the local government against each lot or parcel of land or other property until paid, for the following:

(1) For the amounts of the unpaid assessments therein docketed, with interest on the installments of the assessments at the rate determined by the City Council; and

(2) For any additional interest or penalties imposed by the city with respect to any installments of assessments that are not paid when due.

(D) All unpaid assessments together with accrued and unpaid interest and penalties are a lien in favor of the city on each lot or parcel of land or other property subject to the assessment, and the lien shall have priority over all other liens and encumbrances whatsoever.

(E) The City shall make the lien record available on hard copy or through an online electronic medium. The Finance Officer shall maintain records of each local improvement including the date of filing of each petition, the name of the petitioner, a description of the properties subject to the local improvement district, and the amount of the final assessment as shown in the (resolution or ordinance)

Section 16. Unknown Owner

(A) If after reasonable investigation the identity or location of the owner of any property subject to assessment is unknown, the property may be assessed under the term "unknown owner(s)".

If the property is otherwise correctly described, no final assessment shall be subject to invalidation as a result of error in the name of the owner of the property assessed, or by omission of the name of the owner, or by entry of a name other than that of the true owner.

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

(B) Any mistake, error, omission or failure with respect to the mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the city.

Section 17. Reassessments

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

Section 18. City Funds

(A) The City Council may direct that the City pay a portion of the local improvement if it determines that on account of topographical or physical conditions of the proposed district, the improvements will be subject to excessive or unusual use by the general public, or other extraordinary circumstances exist that merit doing so, so long as the proportion to be paid by the City represents a reasonable relation between the benefits derived by the property specially assessed and the benefits derived by the city as a whole.

(B) The City Council may use any available means of financing the improvement, including city funds, federal or state grants in aid, sewer or water service or other types of services or charges, revenue bonds, general obligation bonds, or other legal means of finance.

Section 19. Financing

(A) The city may provide for interim or permanent financing through any method it deems appropriate as permitted by law.

(B) The issuance of notes or bonds to finance local improvements shall conform to the provisions of state law in effect at the time of issuance, except to the extent expressly modified by this chapter.

Section 20. Parking Improvements

The procedure for establishing motor vehicle parking districts provided for by state law shall be the same as for other improvement districts.

Section 21. Miscellaneous

(A) Re-bonding. Re-bonding of the original assessment shall be as provided by state law in effect at the time an application for re-bonding is submitted with such terms as may be established by the City Council and any applicable ordinances, rules or regulations as provided by the City Council.

(B) Reinstatement. Reinstatement of delinquent liens before the property affected has been sold for payment thereof shall be governed by state law.

(C) The provisions of state law concerning acceptance of home owner's loan corporation bonds and municipal bonds as payments for assessment liens; assessment of public property benefited by improvements; and the inclusion of public roads in sidewalk improvement districts shall be governed by state law.

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

Section 22. Apportionment on Partition or Subdivision

(A) The City Council may apportion a final assessment levied by it against a single tract, lot or parcel of real property among all the lots formed from a subsequent land division of that tract, lot or parcel if the subsequent division is in accordance with state law and is consistent with the applicable acknowledged comprehensive plans. The proportionate distribution of a final assessment may be made whenever the final assessment remains wholly or partially unpaid, and full payment or an installment payment is not due.

(B) The City Council shall apportion a final assessment under this subchapter when requested to do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the final assessment was originally levied or on its own motion. When the deed, mortgage or other instrument evidencing the applicant's ownership or other interest in the parcel has not been recorded by the county clerk of the county in which the parcel is situated, the City Council shall not apportion the final assessment unless the applicant files a true copy of that deed, mortgage or instrument with the city.

(C) Apportionment of a final assessment shall be done in accordance with an order or resolution of the City Council. The order or resolution shall describe each parcel of real property affected by the apportionment, the amount of the final assessment levied against each parcel, the owner of each parcel and such additional information as is required to keep a permanent and complete record of the final assessments and the payments thereon. A copy of the order or resolution shall be filed with the Recorder, required to maintain the lien docket for the city, which shall make any necessary changes or entries in the lien docket for the city.

(D) When a final assessment for an existing subdivision is being paid in installments, if the final assessment is apportioned among smaller lots under this section, the installments remaining unpaid shall be prorated among those smaller lots so that each lot shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid final assessment charged to the parcel upon apportionment.

Lots in subdivisions developed after the effective date of this Chapter Four of the City of Irrigon municipal code shall be assessed in equal amounts, regardless of the size of each respective lot.

(E) The apportionment shall be based on the methodology for imposing the original final assessment. Notice and hearing on reapportionment shall be provided in substantially the same manner as provided in this subchapter for levying a final assessment. The City Council may impose fees reasonably calculated to reimburse the city for its actual costs in apportioning final assessments. The provisions of this section shall apply to estimated assessments with respect to any property divided into smaller lots prior to the levy of the final assessment.

Section 23. Curative Provisions

(1) An improvement assessment shall not be rendered invalid by reason of:

(a) Failure of the city manager's report to contain all information.

(b) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket, or notices required to be published and mailed.

(c) Failure to list the names of or mail notice to an owner of property as required by this chapter.

(d) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.

(2) The council shall have authority to remedy and correct all matters by suitable action and proceedings.

Section 24. Abandonment of Proceedings

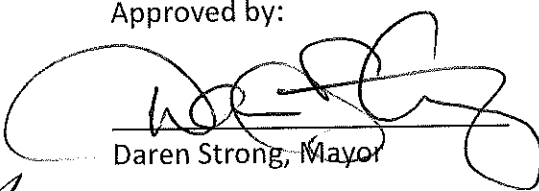
The council may abandon proceedings for improvements made under this chapter at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled and payments made on assessments shall be refunded to the person who paid them or to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

Section 25. Effective Date

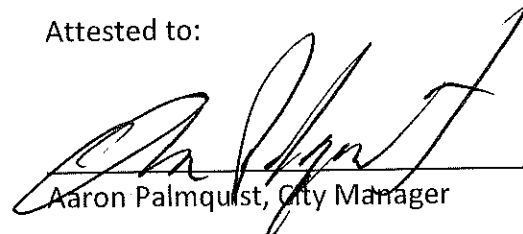
This Ordinance shall take effect 30 days after adoption

Passed by the Council this 17th day of December, 2020

Approved by:


Daren Strong, Mayor

Attested to:


Aaron Palmquist, City Manager