

📖 **CHAPTER 3.16: LOCAL IMPROVEMENT AND SPECIAL ASSESSMENTS**

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ARTICLE I. GENERALLY

📖 § 3.16.010 ~~CITY REPORT~~ ~~REPORT FROM CITY ENGINEER~~—~~APPOINTMENT OF VIEWERS~~—~~RECOMMENDATIONS.~~

Whenever the Council shall deem it expedient to construct, alter, repair or improve any streets, sidewalks, curbing or gutter, or any sanitary sewer or storm drain, or to construct, alter, improve, repair or extend any water mains, lateral or other water pipe lines, or any other improvement provided for by O.R.S. 223.205, 223.387 and 223.805 to 223.880 and 223.930, for which it is anticipated special assessments will be levied, it shall direct the City Manager to have prepared a ~~survey and~~ plat of the project and a description of each lot, tract or parcel of land, or portion thereof, specially benefitted thereby, the description to be either a legal description or a reference to a recorded deed containing the legal description, with the name of the owner or owners and other persons who he or she may find to have any interest in ~~or lien upon~~ the property; a description of the boundaries of the district benefitted and to be assessed for the improvement, the description to be either a legal description or a map clearly showing the boundaries of the project district; and an estimate of the probable cost of the project, which estimate shall include legal, administrative and engineering costs attributable to the project. Thereupon, the City Council shall forthwith appoint, by resolution, three freeholders, who are qualified electors of the city, as viewers, who shall investigate the ~~survey, plat~~ and report and shall make recommendations to the Council with regard to the project together with a just estimated assessment of the benefits to the property that they determine to be specially benefitted by the project. The City Recorder shall act as Clerk for the viewers. (Ord. 1036, § 2R, 1991; Ord. 505, § 1, 1966)

§ 3.16.020 NOTICES—OBJECTIONS AND CLAIMS.

After the filing of the viewers' report, the Recorder shall cause a notice to be published for a period of two successive publications in the city's official newspaper stating that the report is on file in his or her office subject to examination, giving the date when the same was filed, the estimated probable cost of the proposed improvement, a statement of the properties proposed to be assessed therefor and identifying the district, and notifying all persons interested to present their objections to the report, if any they have, and that the objections, if any there be, will be heard by the Council on a date specified in such notice, not less than ten days after the date of the first publication of the notice. Similar notices shall be sent to the owner of each parcel of property benefitted, the notices to be sent by registered or certified mail.

(Ord. 505, § 2, 1966)

§ 3.16.030 HEARINGS—ESTIMATED ASSESSMENTS—INCREASE IN PROPOSED ASSESSMENTS—CONNECTION CHARGE IN LIEU OF ASSESSMENT—INITIATION OF PROJECT.

After the public hearing and after hearing any objections, if the Council finds the viewers' report to be reasonable and just, it may, by ordinance, establish the improvement district and may direct and order the work to be done. If it appears to the Council that the estimated benefits assessed are unreasonable, unjust or improper in any respect, it shall make what it may deem to be a reasonable, just and proper estimated assessment of benefits, and for that purpose it may require a supplementary or further report from the City Manager and/or viewers. When the Council, after the hearing, shall have ascertained what it deems to be a fair, just and proper estimated assessment of benefits, it may pass an ordinance specifying in detail the estimated assessments, which ordinance may be passed at any time after the hearing hereinbefore specified. But if the Council deems it just and proper to increase the amount of any proposed estimated assessment against any parcel of land embraced in the viewers' report, it shall fix a time for a further hearing with respect to the increase, cause the Recorder to send a notice by registered or certified mail to each person who is the owner of, or interested in, the property thus affected, stating what is proposed with respect to the property and giving the date of the further hearing. After the hearing, the Council may pass an ordinance establishing the improvement district and ordering the work to be done in the manner provided by § [3.16.040](#).

(Ord. 1036, § 2S, 1991; Ord. 505, § 3, 1966)

§ 3.16.040 ASSUMPTION OF PORTION OF COST BY CITY.

When, in the opinion of the Council, on account of topographical or physical layout, unusual or excessive public travel or other character of work involved, or when the Council otherwise believes the situation warrants it, it may contribute what it deems a fair proportion of the cost of the improvement from funds of the city; and the amount to be assessed to the property specially benefitted shall be proportionately reduced. The City Council may provide that certain portions of the projects may be met by funds of the city, with the balance to be paid by special assessments.

(Ord. 505, § 5, 1966)

§ 3.16.050 TIME OF ASSESSMENTS—ASSESSMENT ORDINANCE.

The City Council shall determine whether assessments are to be levied before the construction work is begun, based on the estimate of assessments, whether the assessments shall be levied after the work is completed and based on actual cost. If assessments are levied after the work is completed, based on actual cost, an ordinance shall be approved by the Council setting forth the actual costs to be assessed to each property.

(Ord. 505, § 7, 1966)

§ 3.16.060 LIEN RECORDING—COLLECTION OF ASSESSMENTS.

A. The Council, in the assessment ordinance, shall direct the recorder to enter in the docket of city liens a statement of the respective amounts of benefits assessed upon each parcel lot or

parcel of land with the names of the owners thereof. Upon each entry in the lien docket, the amounts so entered shall be a lien ~~and charge~~ upon the respective lots, tracts and parcels of land against which the same are placed. The liens shall be first and prior to all other liens that the law of Oregon will allow them to be against the property.

B. If the Council deems it more expedient, for the purpose of avoiding the necessity of a deficit assessment or rebate as hereinafter provided for when assessments are levied before the project is completed, it may delay the adoption of the ordinance and resolution until the completion of the project and the actual cost thereof and the amount of each assessment is known. The city may proceed to foreclose any lien to which it shall be entitled under this chapter 30 days after the same shall have been entered in the lien docket and arrangements are not made for payment thereof, or becomes delinquent, as provided for foreclosure of liens in O.R.S. 223.505 to ~~223.650~~223.595.

(Ord. 505, § 8, 1966)

§ 3.16.070 DEFICIT ASSESSMENT.

If the Council has the project done after assessments are levied, and if it be found afterwards that the amount previously assessed was insufficient to defray the expenses of the project, the Council may, by resolution, declare the deficit, and order the preparation of proposed deficit assessment, and set a public hearing date. The Recorder shall give notice thereof and of the hearing of objections thereto as above prescribed with reference to the original report, and the Council upon the hearing shall make a just and equitable deficit assessment. The deficit assessment shall be consolidated with the assessment in the lien docket.

(Ord. 505, § 9, 1966)

§ 3.16.080 REBATE.

If the assessments are levied before the project is done, and if, upon the completion of the project, it is found that the sum assessed therefor upon any property is more than sufficient to pay the cost thereof, the Council must ascertain and declare the same, and when so declared it must be entered as in case of a deficit in the docket of city liens, and thereafter the person who paid the surplus, or his or her legal representative, shall be entitled to the payment of the same by a warrant on the City Treasurer.

(Ord. 505, § 10, 1966)

§ 3.16.090 ABANDONMENT OF PROCEEDINGS.

The Council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consummation of the proceedings.

(Ord. 505, § 11, 1966)

§ 3.16.100 CURATIVE PROVISIONS.

No such assessment shall be invalid by reason of a failure to give, in any report, in the proposed assessment, in the ordinance creating the district making the assessment, in the final assessment ordinances, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or the name of any person having ~~an~~ a ~~lien upon or~~ interest therein or by a mistake in the name of any such person or the entry of a name other than the name of the owner or other person having ~~an~~ a ~~lien upon or~~ interest in the property, or by reason of any error, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appears that reasonable notice has not been given of the hearing upon the proposed assessment or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the Council shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

(Ord. 505, § 12, 1966)

§ 3.16.110 BONDING OF IMPROVEMENTS.

The provisions of O.R.S. 223.205 to 223.295 (which is known as the Bancroft Bonding Act) are adopted and made a part hereof by reference, except that the unpaid assessments shall bear interest at a rate to be determined by the City Council in its assessment ordinances. (Ord. 1036, § 2T, 1991; Ord. 794, § 1, 1980; Ord. 505, § 13, 1966)

§ 3.16.120 APPEAL.

Any person feeling aggrieved by assessments made, as provided in this chapter may, within 30 days from the making of the assessment by the Council, appeal therefrom to the Circuit Court of the State of Oregon for Linn County. Any number of persons interested may join in the appeal and the only question to be determined by the appeal shall be the question of the amount of the assessment. The notice of appeal shall be served upon the Mayor, Recorder or City Attorney. The appeal shall be heard and ~~determined~~determined, and the judgment thereon rendered and enforced so far as practicable in the same manner as an action at law. The decision of the Judge or verdict of the Jury shall be a final and conclusive determination of the matter of the assessment, except with respect to the city's right of reassessment as provided in this chapter. ~~The verdict of the jury shall be a final and conclusive determination of the matter of the assessment, except with respect to the city's right of reassessment as provided in this chapter.~~

(Ord. 505, § 14, 1966)

§ 3.16.130 REASSESSMENT—APPEALS.

A. Whenever an assessment for any local improvement which has been or may hereafter be made by the city has been or shall be hereafter set aside, annulled, declared or rendered void, or its enforcement refused by any court of this state, or any federal court, having jurisdiction therein, whether directly or by virtue of any decision of the court, or when the Council shall be in doubt as to the validity of the assessment or any part thereof, the Council may by ordinance make a new assessment or reassessment of the lots, blocks or parcels of land which have been benefitted by the improvement to the extent of their respective and proportionate shares of the full value thereof.

B. The reassessment shall be based upon the special and peculiar benefit of the improvement to the respective parcels of land assessed at the time of its original assessment. Interest thereon from the date of delinquency of the original assessment may be added at the discretion of the Council. The reassessment shall be made in an equitable manner, as nearly as may be in accordance with the law in force at the time it is made. But the Council may adopt a different plan of apportionment of benefits when, in its judgment, this is essential to secure an equitable assessment.

C. The proceedings required by this chapter to be had prior to the making of the original assessment shall not be required to be taken within the intent of this section.

D. Such reassessment shall be made and shall become a charge upon the property upon which the same is laid, notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of this chapter connected with or relating to the improvement and assessment and notwithstanding that the proceedings of the Council or any officer, contractor or other person connected with the work may have been irregular, or defective, whether the irregularity be jurisdictional or otherwise.

E. The Council shall by resolution declare the district that will be benefitted by the improvement for which the reassessment is made, and shall appoint a time and place not less than 20 days distant when it will meet for the purpose of making the reassessment. The Recorder shall give notice to the property owners within the reassessment district of the time and place fixed by the Council for making the reassessment in the manner provided for the original assessment, except that four successive published notices shall be given as required by O.R.S. 223.430. At the time appointed therefor, unless at such time the Council shall adjourn until a future time or day for such purpose or appoint another time therefor, and in such event at

such adjourned for further appointed meeting, the Council shall proceed to make such reassessment in the manner prescribed. The Council, in making the reassessment, shall give an opportunity to any property owner within the assessment district to appear and be heard in reference thereto. After having made the reassessment, the Council shall declare the same by ordinance and the same shall be a final determination of the regularity, ~~validity~~validity, and correctness of the reassessment except as herein otherwise provided. The reassessment shall be entered in the docket of city liens and shall be enforced and collected in like manner as ordinary assessments for local improvements are enforced and collected under this chapter. All sums paid upon the former assessment shall be credited to the property on account of which the same were paid as of the date of the payment.

F. The fact that the city may have sold any such property on the former assessment, or purchased the same for the amount thereof, shall not preclude the enforcement or collection of the reassessment.

G. Any person or persons may appeal to the Circuit Court of the State of Oregon for the County of Linn upon reassessment against any property owned by him or her, or in which he or she has an interest, in the same manner as provided for peals in § [3.16.120](#) and the appeal shall be subject to the provisions of § [3.16.120](#).

ARTICLE II. SENIOR CITIZENS

§ 3.16.140 PURPOSE.

~~The purpose of this article is to permit qualified senior citizens to have deferred the special assessments that may be levied against their residences for improvements. The purpose of this article is to permit qualified senior citizens to have deferred the special assessments that may be levied against their residences for improvements and have deferred the sewer hookup charges and sanitary sewer systems development charges for sanitary sewer service to their residences.~~

(Ord. 745, § 1, 1978)

§ 3.16.150 DEFINITIONS.

A **SENIOR CITIZEN** is a person who is 65 years of age or more at the time that the deferral of payment is granted.

(Ord. 745, § 2, 1978)

§ 3.16.160 QUALIFICATIONS.

To qualify for this senior citizens' assessment and charges deferral program:

A. The property to be assessed or served must be owned by a senior citizen; or, if owned by a husband and wife, then only one of them needs to be a senior citizen;

B. The property to be assessed or served must be the residence of the senior citizen; and

C. C. The senior citizen shall have a gross annual income not to exceed \$18,210 and if he or she is married, then their joint gross annual income shall not exceed \$24,462; and further, not to exceed an increase of more than \$1,100 for each additional dependent that is living with them at the time of the application and during the calendar year preceding the one in which the assessment is to be levied. ~~The senior citizen shall have a gross annual income not to exceed \$6,620 and if he or she is married, then their joint gross annual income shall not exceed \$8,800; and further, not to exceed an increase of more than \$400 for each additional dependent that is living with them at the time of the application and during the calendar year preceding the one in which the assessment is to be levied or the charges are imposed.~~ The gross annual income shall include the gain or loss from the sale or exchange of property and from the operation of a farm or business and shall include all other income. The gross annual income for the calendar year in which the application is made shall be estimated and shall be the amount used to determine whether or not the applicant is qualified. The current monthly income, the prospect for income in the calendar year, the gross annual income during the previous calendar year shall all be considered in estimating the gross annual income. The City Manager may require such information from the applicant as the City Manager deems necessary to make the estimate and the City Manager shall then determine the gross annual income of the applicant and whether or not he or she qualifies.

(Ord. 1036, § 2U, 1991; Ord. 745, § 3, 1978)

§ 3.16.170 DEFERRAL OF ASSESSMENT AND CHARGES.

To the extent that funds are conveniently available to the city, a qualified senior citizen may choose to have deferred the special assessment for improvements that is to be or has been levied against his or her residence, ~~and have deferred the sewer hookup charges and sanitary sewer systems development charges for sanitary sewer service to his or her residence.~~ The assessment may be deferred, even if a part thereof has been paid. The assessment shall bear interest at the rate of 7% per annum from the date that the assessment is levied against the residence and until paid, and shall become due when the property ceases to be the residence of

the senior citizen or his or her spouse. This may be by reason of the sale or rental of the property, or the death of both the senior citizen and his or her spouse, or for any other reason whatsoever. The assessments and charges may be deferred, even if a part thereof has been paid. The assessments and charges shall bear interest at the rate of 7% per annum from the date that the assessment is levied against the residence, or the charges are imposed, and until paid, and shall become due when the property ceases to be the residence of the senior citizen or his or her spouse. This may be by reason of the sale or rental of the property, or the death of both the senior citizen and his or her spouse, or for any other reason whatsoever.
(Ord. 745, § 4, 1978)

§ 3.16.180 INVESTIGATION OF STATUS OF LAND.

As frequently as appears appropriate, the City Manager shall review the county records relating to ~~deferred special~~ a deferred special assessment ~~assessments and charges~~ and shall also make such investigations as appear appropriate to learn of any other material changes in the status of the subject land.

(Ord. 745, § 5, 1978)

§ 3.16.190 ASSESSMENT AND CHARGES TO BE A LIEN.

Any assessment that is deferred by the terms of this Article II shall become a lien on the land just as though this Article II had not been adopted. When the assessment becomes due by the terms of SHMC 3.16.170 of this Article II, it may be enforced and collected as though it had not been deferred.

~~Any assessment and charges that are deferred by the terms of this chapter shall become a lien on the land just as though this chapter had not been adopted. When the assessments and charges become due by the terms of § 3.16.170 of this chapter, they may be enforced and collected as though they had not been deferred.~~

(Ord. 745, § 6, 1978)

§ 3.16.200 ELECTION.

A qualified senior citizen, who elects to have an assessment ~~or charges~~ deferred pursuant to the provisions of this Article II ~~this chapter~~, shall enter into a contract with the city, as may be required by the city.