

ORDINANCE No.

Amend Local Improvement District procedure for technical clarifications (Ordinance; amend Code Chapter 17.08)

The City of Portland ordains:

Section 1. The Council finds:

1. The current Local Improvement District procedure was established by the passage of Ordinance No. 177124 on December 11, 2002. The LID Program housed in the Portland Bureau of Transportation has since managed 54 local improvement districts (LIDs) including 39 completed LIDs and 15 pending LIDs for a total of 54 LIDs as indicated in Exhibit A. A majority of these LIDs are projects for which the Portland Bureau of Transportation is the Responsible Bureau; however, completed and pending LIDs also include projects for which the Bureau of Environmental Services, the Portland Water Bureau and Portland Parks & Recreation have also been designated as Responsible Bureaus within the applicable LID Formation Ordinance. This reflects that there is a Citywide benefit resulting from the construction of additional public infrastructure which would not be financially feasible if projects could be funded only from property taxes or other uniform and broad-based Citywide taxation.
2. The LID Administrator in consultation with the City Attorney has compiled a list of desired Code changes based on the experience of administering the LIDs identified in Exhibit A to provide technical clarifications to rectify minor difficulties in interpreting LID Code. Code changes include:
 - a. The passage of Ordinance 189347 forming the NE 46th Avenue & Bryant Street LID on January 16, 2019 apportions a significant level of special benefit to properties that will become exempt from property taxes with a pending change of ownership. This Code change will codify a longstanding practice of assessing specially benefited public properties for LIDs and clarifies that a property tax exemption is not grounds from exempting a property from an LID assessment.
 - b. A requirement will be codified that an updated Engineer's Estimate be included as an exhibit when Council approves a major cost and/or scope change to an LID, reflecting best practices and notwithstanding that past LID hearings as required by Code section 17.08.080 for street improvement LIDs have always been for betterments to the project scope. This Code change also clarifies that a property owner remonstrance is only against a major scope or cost change and is not against the original LID cost and scope as established in the LID Formation Ordinance.

- c. A clarification is made that an LID hearing is not required to the extent that a major cost or scope change is made but is voluntarily funded by another funding source or voluntarily by property owner(s) within the LID and does not result in an apportionment of this additional project expense to all properties within the LID per the assessment methodology as established at LID formation.
 - d. This LID Code change does not preclude overhead from being charged on LIDs nor an exemption from competitive bidding but does require that both be established at LID formation to ensure that costs are appropriately budgeted to avoid the need for a Council hearing as required by Code section 17.08.080.
 - e. The use of assessed value and/or real market value as assessment methodology criteria are expressly prohibited by this Code change to ensure adherence to property tax limitations as established in the Oregon law, which has strict standards by which LID funds can be deemed to meet the requirement of comprising a capital improvement under Oregon law.
 - f. Existing Code prohibits property owners from amending an LID assessment methodology notwithstanding concurrence among property owners to do so. This Code change clarifies and expressly states Council prerogative to do so under its authority to make findings of special benefit as established by Oregon law.
 - g. Additional Code changes are proposed for consistent use of terminology and to improve readability of LID Code.
3. No major or substantive changes are made by this Ordinance to LID procedure or to roles in administering LIDs.

NOW, THEREFORE, the Council directs:

- a. That Code Chapter 17.08 is amended as shown in Exhibit B.

Passed by the Council,

Commissioner Chloe Eudaly
Prepared by: Andrew Aebi:cdb
Date Prepared: 7/29/2020

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

Agenda No.
ORDINANCE NO.
 Title

Amend Local Improvement District procedure for technical clarifications (Ordinance; amend Code Chapter 17.08)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Chloe Eudaly</p>	<p>CLERK USE: DATE FILED <u>9/1/20</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u>Karla Moore-Love</u> <small>Digitally signed by Karla Moore-Love Date: 2020.09.01 16:37:45 -07'00'</small> Deputy</p>
<p>Mayor—Finance & Administration - Wheeler</p>	
<p>Position 1/Utilities - Fritz</p>	
<p>Position 2/Works - Vacant</p>	
<p>Position 3/Affairs - Hardesty</p>	
<p>Position 4/Safety - Eudaly <small>Digitally signed by Jamey Duhamel Date: 2020.09.01 16:08:09 -07'00'</small></p>	
<p style="text-align: center;">BUREAU APPROVAL</p>	
<p>Bureau: PBOT Bureau Head: Christopher Warner <small>Digitally signed by Christopher Warner Date: 2020.09.01 09:08:09 -07'00'</small></p>	
<p>Prepared by: Andrew Aebi Date Prepared: 7/29/20</p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: Eric Shaffner required for contract, code, easement, franchise, comp plan, charter <small>Digitally signed by Eric Shaffner Date: 2020.07.29 12:58:03 -07'00'</small></p>	
<p>Council Meeting Date 9/2/20</p>	<p>ACTION TAKEN: September 9, 2020 Passed to Second Reading September 16, 2020 at 9:30 a.m.</p>

AGENDA

TIME CERTAIN
 Start time: _____
Total amount of time needed: _____
 (for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: _____
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Vacant	2. Vacant		
3. Hardesty	3. Hardesty		
4. Eudaly	4. Eudaly		
Wheeler	Wheeler		

EXHIBIT A

Local Improvement Districts Administered by LID Program Under Existing Code Section 17.08 as of July 29, 2020

Completed Street LIDs (34)

Boise / Earl Boyles Park LID
Lents I LID
Lents II LID
Lents III / SE 104th & Ramona LID
Lents III Extension LID
Lents Phase IV / SE 118th Avenue LID
N Marine Drive Extension LID
N Winchell Street LID
NE 109th Avenue LID
NE 112th Avenue & Marx Street LID
NE 135th Avenue & Prescott Court LID
NE 136th Avenue Phase I LID
NE 148th Avenue LID
NE 52nd Avenue & Alberta Street LID
NE 87th Avenue & Columbia Blvd. LID
NE 92nd Drive LID
NE 97th Avenue Green Street LID
NE Alberta Street Phase I LID
NE Couch Court LID
NE Winchell Street LID
NW 13th Avenue Phase II LID
NW Thompson Road LID
SE 119th & Pine LID
SE 128th Avenue LID
SE 152nd Avenue LID
SE 31st Avenue LID
SE 82nd Avenue of Roses & Bybee Blvd. LID
SE 86th Court & Steele Street LID
SE Ellis Street LID
SE Water Avenue & Yamhill Street LID
SW 19th Avenue LID
SW Dolph Court - Spring Garden Street LID
SW Nevada Street LID
SW Texas Green Street LID

Completed Aerial Tram LID (1)

Portland Aerial Tram LID

EXHIBIT A

Completed Traffic Signal LID (1)

N Vancouver Avenue & Cook Street LID

Completed Sanitary Sewer LIDs (2)

Deltawood Phase II LID

Royal Highlands Phase II LID

Completed Water Main LID (1)

Deltawood Phase I LID

Pending Street LIDs (14)

N Burlington Ave & Edison St LID

N Suttle Road LID

NE 27th Avenue & Holland Street LID

NE 46th Avenue & Bryant Street LID

NE 47th Avenue Phase I LID

NE 55th-57th Aves & Killingsworth St LID

NE 97th Avenue Phase II LID

NE Couch-Davis Street Local Improvement District

NW 20th Avenue LID

NW Front Avenue - Naito Parkway LID

SE 102nd Avenue & Woodstock Blvd. LID

SE 80th Avenue & SE Mill Street LID

SW 45th Avenue & California Street LID

SW 47th Avenue Phase I LID

Pending Park LID (1)

Portland Open Space Sequence LID

54 Total LIDs Including 39 Completed LIDs and 15 Pending LIDs as of 7/29/20

EXHIBIT B

CHAPTER 17.08 - LOCAL IMPROVEMENT
PROCEDURE

(Chapter replaced by Ordinance No. 177124,
effective January 10, 2003.)

Sections:

- 17.08.010 Definitions and Scopes of Duties.
- 17.08.020 City Council Control.
- 17.08.030 Charter Provisions Applicable.
- 17.08.040 Initiation of Local Improvement Formation Proceedings.
- 17.08.050 Petition for a Local Improvement District.
- 17.08.060 Resolution of Intent.
- 17.08.070 Local Improvement District Formation and Remonstrances.
- 17.08.080 Changes to Scope or Cost of Improvements and Notice to Proceed.
- 17.08.090 Abandonment of Local Improvement District.
- 17.08.100 Completion of Construction.
- 17.08.110 Total Cost of Local Improvement
- 17.08.120 Alternative Financing Methods.
- 17.08.130 Final Assessment and Objections.

17.08.010 Definitions and Scopes of Duties.

(Amended by Ordinance Nos. 182389, 184957 and 189413, effective March 6, 2019.)

A. The “Responsible Bureau” for a local improvement is as follows:

1. The Bureau of Transportation is the Responsible Bureau for street and other transportation improvements;
2. The Bureau of Environmental Services is the Responsible Bureau for sanitary sewer, stormwater management and other environmental improvements;
3. The Bureau of Water Works is the Responsible Bureau for water improvements; and
4. City Council ~~shall~~ will designate the Responsible Bureau for a local improvement that is not addressed by this section.

B. “Local Improvement District Administrator” means the person designated by the Director of the Bureau of Transportation to administer the City’s local improvement district program.

C. “Property” means includes land irrespective of whether such land is assessed for property taxes. Property for purposes of a future local improvement district

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assessment does not include equipment which may be assessed by other jurisdictions for property tax purposes. Property for purposes of a local improvement district assessment includes all public real property held in fee simple title but excludes public rights-of-way under public jurisdiction.

ED. The Responsible Engineer as identified in Section 17.04.037 is responsible for:

1. Preparing a preliminary engineer's estimate and preparing an analysis of proposed significant and material changes to the scope or cost of improvements after formation of a local improvement district prior to preparing plans and specifications;
2. Preparing plans and specifications;
3. Entering into a contract for improvement construction and/or engineering;
4. Handling completion of construction and acceptance of work;
5. Preparing a final engineer's estimate; and
6. Any other work related to engineering or construction.

DE. The Local Improvement District Administrator is responsible for:

1. Preparing a petition for a local improvement district and determining the validity of a petition for a local improvement district as appropriate;
2. Recommending an assessment methodology ~~or assessment methodologies~~ for a local improvement district to City Council;
3. Analyzing financial feasibility of a local improvement district prior to formation;
4. Preparing and filing a ~~resolution~~ Resolution of ~~intent~~ Intent for formation of a local improvement district;
5. Publishing and posting notices for the ~~formation hearing~~ Formation Hearing of a local improvement district;
6. Preparing and filing a ~~formation ordinance~~ Formation Ordinance for a local improvement district;
7. Responding to remonstrances against formation of a local improvement district;

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8. Presenting significant and material changes to scope or cost of improvements to City Council after formation of a local improvement district;
9. Recommending abandonment of a local improvement district;
10. Determining the total cost of the local improvement;
11. Publishing and posting notice of final assessment for a local improvement district;
12. Preparing and filing the ~~final assessment ordinance~~ Final Assessment Ordinance for a local improvement district;
13. Responding to objections against final assessment of a local improvement district; and
14. Any other work related to processing or completing local improvement districts.

EF. The Revenue Division ~~shall~~ will be responsible for:

1. Mailing notices for the ~~formation hearing~~ Formation Hearing of a local improvement district at the direction of the Local Improvement District Administrator;
2. Receiving written remonstrances against the formation of a local improvement district, and forwarding such remonstrances to the Local Improvement District Administrator for a response;
3. Maintaining records of preliminary estimates of assessments;
4. Mailing notices for the ~~final assessment hearing~~ Final Assessment Hearing for a local improvement district at the direction of the Local Improvement District Administrator;
5. Receiving written objections to the final assessment for a local improvement district, and forwarding such objections to the Local Improvement District Administrator for a response;
6. Entering final assessments for a local improvement district into the docket of City Liens upon passage of an ~~assessment ordinance~~ Final Assessment Ordinance for a local improvement district;
7. Mailing of notices of final assessment to property owners after passage of the ~~assessment ordinance~~ Final Assessment Ordinance and entry into the docket of City Liens;

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8. Determining the individual financial capacities of property owners, and whether to offer bonding, if requested; and
9. Obtaining interim financing to pay for local improvement costs prior to bonding.

17.08.020 City Council Control.

Whenever the City Council deems it expedient, it may order an improvement; when the City Council determines that such improvement will afford a special benefit to property within a particular local improvement district, the City Council ~~shall~~ will classify it as a local improvement, and provide for payment of all or a portion of the cost thereof by imposition and collection of local assessments on the property benefited.

17.08.030 Charter Provisions Applicable.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Charter provisions applicable to local improvements ~~shall~~ will be followed by the City except where Charter provisions are contrary to state statute or the Oregon Constitution. In case of such conflict, legally applicable City Code ~~shall~~ will apply.

17.08.040 Initiation of Local Improvement Formation Proceedings.

- A. City Council may, at its discretion, initiate a local improvement district formation proceeding by adopting a ~~resolution~~ Resolution of ~~intent~~ Intent to undertake a capital construction project, or part thereof, based on one of more of the following criteria:
 1. A valid petition of support per the criteria in Section 17.08.050, signed by property owners and filed with the Local Improvement District Administrator;
 2. A recommendation from the Responsible Bureau; ~~and/or~~
 3. Its own initiative.
- B. Where formation of a sewer local improvement district is ordered pursuant to an Environmental Quality Commission Order and a sewer plan has been developed and adopted by the City Council, preparation of the construction plans and specifications for that improvement may begin without action by the City Council.

17.08.050 Petition for a Local Improvement District .

- A. A petition of support may be prepared by the Local Improvement District Administrator or by owners of property that may be specially benefited by the proposed improvement.
- B. The petition ~~shall~~ will include:

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1. The name or designation of the improvement;
 2. A map or clear description of the location of the improvement;
 3. The general character and scope of the improvement; and
 4. A proposed assessment methodology.
- C. The Local Improvement District Administrator ~~shall~~ will review a petition for the proposed local improvement district to determine if the petition is valid. A petition will be considered valid only when property owned by petition signers added to property covered by waivers of remonstrance and property owned by the City represents more than 50 percent of the property in the proposed local improvement district as measured by the proposed assessment methodology. Property owned by the City, including property owned through the Portland Development Commission, ~~shall~~ will be counted in support of formation of a local improvement district.
- D. The Local Improvement District Administrator will not consider a petition valid if a petition for a substantially similar local improvement district has been filed in the previous 6 months and City Council resolved not to proceed with the substantially similar local improvement district.
- E. In reviewing the petition, the Local Improvement District Administrator ~~shall~~ will also identify delinquencies in taxes or City liens in the proposed local improvement district and determine the bonding capacities of the properties within the proposed local improvement district. The Local Improvement District Administrator ~~shall~~ will analyze project financial feasibility by determining whether the sums assessed together with all unpaid sums then outstanding as assessments against the properties would exceed one-half the real market valuation of the properties as shown on the latest county tax rolls.
- F. A petition of support will not be disqualified as a result of a subsequent transfer in property ownership. However, the new property owner has a right to remonstrate against the proposed improvement as provided in Chapter 17.08.

17.08.060 Resolution of Intent.

- A. The Local Improvement District Administrator ~~shall~~ will prepare and file a ~~resolution~~ Resolution of ~~intent~~ Intent for the City Council's consideration ~~if after the review specified in Section 17.08.050 the Local Improvement District Administrator determines a petition is valid; if a Responsible Bureau recommends initiation of a local improvement district; and/or if a member of City Council requests initiation of a local improvement district.~~ subsequent to any of the following:

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1. After the review specific in Section 17.08.050 the Local Improvement District Administrator determined a petition is valid; or
 2. A Responsible Bureau recommends initiation of a local improvement district; or
 3. A member of City Council requests initiation of a local improvement district.
- B.** The ~~resolution~~ Resolution of ~~intent~~ Intent ~~shall~~ will include the following: the name or designation of the improvement; the location of the improvement; a map or clear description of the local improvement district boundary; the general character and scope of the improvement; a preliminary estimate of the total cost of the local improvement; the proposed assessment methodology; the proportion of funding to be borne by property owners and other sources, if applicable; the designated Responsible Bureau if the project scope is not addressed by Section 17.08.010; a statement of whether the City Council intends to construct the improvement; and direction to the Local Improvement District Administrator to do one of the following:
1. Initiate formation proceedings on the proposed local improvement district; or
 2. Suspend proceedings on the proposed local improvement district; or
 3. Terminate the process for forming the proposed local improvement district.
- C.** If City Council passes a ~~resolution~~ Resolution of ~~intent~~ Intent to construct the improvements, City Council ~~shall~~ will direct the Local Improvement District Administrator to initiate local improvement district formation proceedings as set forth in Section 17.08.070.
- D.** The City Council may direct that the engineering and construction work ~~shall~~ will be done in whole or in part by the City, by a contract, by direct employment of labor, by another governmental agency, or by any combination thereof. Projects partially or fully funded by local improvement district revenue will be subject to competitive bidding. Local improvement districts will not be subject to Subsection 5.34.150 H. of City Code unless this Section is waived in the ordinance forming the local improvement district.
- E.** If a petition is not valid, but the City Council determines that an improvement should be constructed, it may initiate the proceedings by adopting a ~~resolution~~ Resolution of ~~intent~~ Intent to construct the improvement.
- F.** If the City Council determines that some other construction, such as installation of water lines, sewer lines prior to a street improvement, installation of fire hydrants, utility lines or conduits, conduits for underground service for street lights, or any

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other underground construction should precede the particular proposed improvement, then the City Council may suspend the proceedings for the proposed improvement until such construction has been started or completed.

- G.** If the City Council passes a ~~resolution~~ Resolution of Intent to terminate the process for forming the local improvement district or considers but fails to pass a resolution to initiate local improvement district formation proceedings, no further action ~~shall~~ will be taken by the Local Improvement District Administrator on the local improvement district for a period of 6 months, other than actions to close the project.

17.08.070 Local Improvement District Formation and Remonstrances.

(Amended by Ordinance No. 189413, effective March 6, 2019.)

A. Notice of Public Hearing

- 1.** Publication Notice: Except as otherwise provided by Charter for changes to street grades, the Local Improvement District Administrator ~~shall~~ will publish 2 notices of the City's intent to form a local improvement district by publication in a paper of general circulation in the City at least 14 calendar days before the ~~formation hearing~~ Formation Hearing. The notices ~~shall~~ will include the following information:
- a.** The time, date and place of the formation hearing before City Council;
 - b.** The name of the proposed local improvement district;
 - c.** A description of the type and scope of improvements to be made;
 - d.** A map or description of the ~~area~~ properties proposed for inclusion in the local improvement district for which a legal description is not required;
 - e.** A preliminary estimate of the total cost of the local improvement based on the preliminary engineer's estimate;
 - f.** The methodology or methodologies by which properties will be assessed, which may include neither assessed valuation nor real market valuation as elements;
 - g.** A statement that the proposal could be modified as a result of the testimony at the formation hearing and that property owners should attend the hearing to have an opportunity to testify on proposed changes;

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~~shall~~ will, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner or owners of property. The Revenue Division will forward the remonstrance to the Local Improvement District Administrator for a response. A written remonstrance may be withdrawn at any time before the close of the City Council hearing on the formation of the ~~District~~ local improvement district.

2. Owners of property covered by waivers of remonstrance may submit an objection; however such an objection ~~shall~~ will not be considered for purposes of determining City Council jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement.
3. The number of remonstrances that will defeat formation of a proposed local improvement district ~~shall~~ will be as provided by Chapter 9 of the City Charter for the particular type of improvement.

C. Formation Ordinance

1. The local improvement district formation ordinance ~~shall~~ will contain at least the following findings:
 - a. Name of the proposed local improvement district;
 - b. A general description of the project scope as may also be shown on a typical section;
 - c. A description of the proposed local improvement district with a reference to specific local improvement district boundaries, or a map showing the ~~area~~ properties proposed for inclusion in the local improvement district;
 - d. A preliminary estimate of the total cost of the local improvement, including design, construction, engineering, project management and financing;
 - e. The assessment methodology or methodologies by which benefit within the local improvement district will be assigned;
 - f. A preliminary estimate of assessments for each property owner within the local improvement district based on the proposed assessment methodology or methodologies;
 - g. A statement as to the financial feasibility of the local improvement district, based on the preliminary estimate of assessments and outstanding past assessments and taxes; and

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enlarges the ~~assessment~~ local improvement district within the adopted formation ordinance, then a new preliminary estimate of assessments will be made and new notices ~~shall~~ will be sent to the property owners within the proposed local improvement district, and another hearing ~~shall~~ will be held. The notice ~~shall~~ will advise property owners who still wish to remonstrate that their remonstrance must be resubmitted. However, no new publication or posting ~~shall~~ will be required. In the event of modification that meets the objection of any remonstrance, such remonstrance ~~shall~~ will not be counted as such unless renewed following such modification.

3. Decision to Form Local Improvement District: Upon completion of the hearing process, the City Council may approve or decline formation of a local improvement district by ordinance. As provided in Subsection 17.08.070 C.1., a decision to approve formation of a local improvement district ~~shall~~ will be supported by findings supporting a conclusion of special benefit and addressing the remonstrances, and ~~shall~~ will direct the Local Improvement District Administrator to arrange for construction of the local improvement.
4. If the City Council approves formation of the local improvement district, the Responsible Engineer ~~shall~~ will arrange for the preparation of plans and specifications. Upon completion, approved plans will be available for inspection at the Responsible Bureau for at least the minimum time period specified in its Records Retention and Disposition Schedule. The local improvement may be constructed and/or engineered in whole or in part by the City or by another government agency, or the City may seek bids for any portion of the local improvement. Projects partially or fully funded by local improvement district revenue will be subject to competitive bidding and will not be subject to Subsection 5.34.150 H. of City Code unless this Section is waived in the ordinance forming the local improvement district.
5. The City Council ~~shall~~ will have final determination of the kind and character of the local improvement, its location and extent, materials to be used, and all matters contained in the plans and specifications.
6. The City Council ~~shall~~ will also have final determination of the assessment ~~formula~~ methodology and boundaries of the local improvement district that is to be assessed for the costs of the improvement, except that the assessment methodology may not include a criterion based on real market valuation or assessed market valuation. The possibility or likelihood that some property contained in the property description of the proposed ~~assessment~~ local improvement district may not be benefited by the proposed improvement ~~shall~~ will not invalidate the local improvement district description.

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7. Upon City Council's passage of an ordinance forming a local improvement district, the assessment ~~formula~~ methodology may not be changed except by City Council Ordinance notwithstanding concurrence among the property owner(s), nor can the assessment obligation be transferred to a property not included in the local improvement district. No release of obligation ~~shall~~ will be made by the Revenue Division until after final assessment is made.

17.08.080 Changes to Scope or Cost of Improvements and Notice to Proceed.

(Amended by Ordinance No. 182760, effective June 5, 2009.)

- A. After formation of a local improvement district, City Council ~~shall~~ will hold a public hearing to consider significant and material changes to the proposed scope or significant and material changes to the estimate of the total cost of the local improvement district that may arise during the course of final engineering which would result in a significant and material increase to the future assessment of properties per the assessment methodology established in the Formation Ordinance.
- B. For such a hearing, notice ~~shall~~ will be in the manner provided by Section 17.08.070. In addition to meeting the provisions of Section 17.08.070, the notice ~~shall~~ will also state the nature of the proposed modifications to the scope of improvements or to the preliminary estimate of the total cost of the local improvement previously approved at the Local Improvement District formation hearing. Property owners ~~shall~~ will have the opportunity to remonstrate against the significant and material changes in the manner provided by Section 17.08.070 and the remonstrance only pertains to the significant and material increase and/or the significant and material scope change and not to the original local improvement district as approved by Council per Section 17.08.070. If the improvement district was initiated by petition, no new petition will be required.
- C. The Responsible Engineer may issue a Notice to Proceed to begin construction provided that:
 1. There are no significant and material changes to the scope of the local improvements; or
 2. There are no significant and material changes to the preliminary estimate of assessments for the benefiting properties in the local improvement district; or
 3. The City Council has approved significant and material changes to scope and/or cost of the improvements as provided in this section.

Construction of the local improvement ~~shall~~ will be in substantial accordance with the plans and specifications adopted by the Responsible Engineer.

17.08.090 Abandonment of Local Improvement District.

The City Council ~~shall~~ will have full power and authority to abandon and rescind proceedings for local improvements at any time prior to the final completion of the improvements.

17.08.100 Completion of Construction.

(Amended by Ordinance No. 182760, effective June 5, 2009.)

- A. After the work financed by the local improvement district has been completed satisfactorily, the Responsible Engineer ~~shall~~ will prepare a certificate of completion. The Responsible Engineer ~~shall~~ will also prepare a final engineer's estimate showing the costs of all engineering and construction work performed. The certificate of completion ~~shall~~ will be deemed acceptance by the City of the local improvement work.
- B. Authorization for final payment will be made as provided by Chapter 5.33 of City Code.
- C. The Local Improvement District Administrator will include the final engineer's estimate and a copy of the certificate of completion with the filing of the ~~final assessment ordinance~~ Final Assessment Ordinance as set forth in Section 17.08.130.
- D. Notice of completion of the work need not be provided except as may be required elsewhere in City Code.
- E. If a local improvement is substantially complete except for contract closeout, or if a scope of improvement included in the construction contract but not included in the local improvement is incomplete, the Responsible Engineer at the discretion of the Responsible Bureau may file a written report attesting that the local improvements are complete in lieu of a certificate of completion. The provisions set forth in Subsection 17.08.100-A, apply, except that the written report substitutes for the certificate of completion. Any further project or financing costs incurred subsequent to final assessment will be the responsibility of the Responsible Bureau, not of the property owners.

17.08.110 Total Cost of Local Improvement.

(Amended by Ordinance No. 189413, effective March 6, 2019.)

- A. After the work financed by a local improvement district has been accepted as complete, the Local Improvement District Administrator ~~shall~~ will determine the total cost of the local improvement, including costs identified in the final engineer's estimate and any pending costs.

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- B.** The total cost of the local improvement that may be assessed against the properties specially benefited by the improvement ~~shall~~ will include, but not be limited to the following:
1. Direct or indirect costs incurred in order to undertake the capital construction project such as the costs of labor, materials, supplies, equipment, permits, survey, engineering, administration, supervision, inspection, insurance, advertising and notification, administration, accounting, depreciation, amortization, operation, maintenance, repair, replacement, contracts, debt service and assessment;
 2. Financing costs, including interest charges; the costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings; and
 3. Attorneys' fees and any other actual expense as allowed by state law.
 4. The total cost of the local improvement that may be assessed against the properties specially benefited by the improvement will not include Bureau of Transportation overhead costs unless this Section is waived in the ordinance forming the local improvement district.
- C.** Engineering and project management performed by the City in connection with local improvements ~~shall~~ will be charged at the rate of 100 percent of the direct cost of services performed computed in accordance with the provisions of Section 5.48.030. The Responsible Engineer ~~shall~~ will prepare a final engineer's estimate of the engineering and construction costs. A final estimate of the total project costs, including costs reflected in the final engineer's estimate, ~~shall~~ will be prepared by the Local Improvement District Administrator.
- D.** The Revenue Division ~~shall~~ will maintain a fee schedule that ~~shall~~ will be used for determining the charge to be made for Revenue Division's administrative services and general City administrative services in connection with local improvements. These charges will include a Superintendency fee; a recording fee which ~~shall~~ will be fixed regardless of the amount of the assessment; and a monthly billing fee if the property owner does not pay the full assessment at the time it is levied.

17.08.120 Alternative Financing Methods.

Nothing contained in this Chapter ~~shall~~ will preclude the City Council from using any other available means of financing portions of local improvements, including but not limited to city funds, federal or state grants, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the City Council may make assessments to pay any remaining part of the total costs of the local improvement.

17.08.130 Final Assessment and Objections.

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(Amended by Ordinance Nos. 182760, 184957 and 189413, effective March 6, 2019.)

A. Apportionment of Proposed Final Assessments

1. Whenever any local improvement, any part of the cost of which is to be assessed upon the property specially benefited thereby, is completed in whole, or in such part that the cost of the whole can be determined, the Local Improvement District Administrator ~~shall~~ will file the final estimate of the total cost of the local improvement and prepare a proposed final assessment according to the assessment ~~formula~~ methodology approved by City Council upon the properties in the local improvement district, including upon any land owned by the City.
2. If the City Council has determined that a portion of the total cost of the local improvement is to be paid from public funds, other than the benefit assessment to be imposed upon land owned by the City and lying within the ~~assessment district~~ local improvement fixed by the City Council, the Local Improvement District Administrator ~~shall~~ will deduct from the total cost of the local improvement such allocation of costs to public funds provided by the City Council and ~~shall~~ will apportion the remainder of such total cost on the properties within the ~~assessment district~~ local improvement.
3. When the Local Improvement District Administrator has calculated the assessment for each property, the Local Improvement District Administrator ~~shall~~ will file the proposed final assessment roll with the City Council through the Commissioner-in-Charge of the Responsible Bureau.

B. Notice of Proposed Final Assessments

1. At least 21 calendar days before the public hearing on the proposed final assessment, the Revenue Division at the direction of the Local Improvement District Administrator ~~shall~~ will provide notice to the owner of each property or to the owner's agent as shown in the County tax record either by mail or by personal delivery. The notice ~~shall~~ will state:
 - a. The property description;
 - b. The amount of the proposed final assessment against the property;
 - c. A statement that this amount could be modified as a result of objections filed by other property owners in the local improvement district unless the cost to property owners is fixed;
 - d. The date, time and place of the final assessment hearing;
 - e. The deadline and manner for filing objections to the proposed final assessment; and

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f. Contact information for the Local Improvement District Administrator.

2. The Local Improvement District Administrator ~~shall~~ will publish 2 notices of the proposed final assessment in a newspaper of general circulation in the City at least 14 calendar days prior to the final assessment hearing.

C. Final Assessment Hearing and Objections

1. Any owner of property proposed to be assessed a share of the cost of a local improvement may file an objection to the proposed final assessment in writing with the Revenue Division. The objection must be received by the Revenue Division no later than 5:00 PM seven (7) calendar days prior to the hearing by City Council on the proposed final assessment. The Revenue Division will forward the objection to the Local Improvement District Administrator for a response. The objection ~~shall~~ will be filed in the same manner as set forth in Subsection 17.08.070-B, and ~~shall~~ will state the reasons for the objection. However, objections received to final assessment ~~shall~~ will not affect City Council jurisdiction over final assessment proceedings.
2. The City Council ~~shall~~ will hold a hearing on any objections on the date set forth in the notice, and at that time ~~shall~~ will consider objections made by the owners of property at the hearing. The hearing may be continued as the City Council may find appropriate.
3. At the hearing, the City Council at its discretion ~~shall~~ will determine and approve the amount to be assessed upon each property within the ~~assessment~~ local improvement district, which amount does not exceed the special benefits accruing to such property from the improvement and the sum of which amount and other amounts assessed against properties within the ~~assessment~~ local improvement district do not exceed the total cost of the local improvement. The amount of each assessment as determined by City Council ~~shall~~ will be based on the City Council's finding of special benefit to the property.

D. Final Assessment Ordinance

1. The City Council ~~shall~~ will pass an assessing ordinance that ~~shall~~ will set forth the assessments against the respective properties within the ~~assessment~~ local improvement district.
2. The ordinance ~~shall~~ will:
 - a. Include an exhibit containing findings addressing each objection received, and number of objections received

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- b. State the total cost and assessment ~~formula~~ methodology used
 - c. Include a statement that each property is specifically benefited in the amount shown in the assessment roll;
 - d. Include a statement that the project has been constructed as provided in the adopted plans and specifications, and, if the provisions set forth in Subsection 17.08.100 E. have been invoked, a copy of the written report from the Responsible Engineer attesting that the local improvements are complete in-lieu of a certificate of completion; and
 - e. Contain a directive to sustain or overrule the objections.
3. Upon passage of the assessing ordinance, the Revenue Division ~~shall~~ will enter the assessments in the docket of City liens and follow the assessment procedure set forth in Chapter 17.12. As provided by City Charter, the assessment ordinance ~~shall~~ will take effect immediately upon passage or on any date fewer than 30 days after passage that is specified in the final assessment ordinance.
4. Claimed mistakes in the calculation of assessments ~~shall~~ will be brought to the attention of the Local Improvement District Administrator, who ~~shall~~ will determine whether there has been a mistake. If the Local Improvement District Administrator finds that there has been a mistake, the Local Improvement District Administrator ~~shall~~ will recommend to the City Council an amendment to the assessment ordinance to correct the error. On enactment of an amendment, the Revenue Division ~~shall~~ will cause the necessary correction to be made in the City lien docket. Such correction ~~shall~~ will not change assessments against any other property within the local improvement district.
- E. Formation of a new local improvement district: In the event a court of law holds that the formation of a local improvement district was invalid or improper procedures were used, property owners may be assessed after the new local improvement district is formed if the properties are again included.

IMPACT STATEMENT

Legislation title: Amend Local Improvement District procedure for technical clarifications (Ordinance; amend Code Chapter 17.08)

Contact name: Andrew Aebi

Contact phone: 503-823-5648

Presenter name: Andrew Aebi

Purpose of proposed legislation and background information:

- Makes technical changes to LID Code 17.08 to improve clarity in advance of initiation of local improvement district formation proceedings for two (2) new planned LIDs in Fall 2020.

Financial and budgetary impacts:

- The Code updates reflect past financial practices, and no significant financial impact is anticipated. Provision 17.08.110 B.4 clarifies that when overhead is charged, it is established at LID formation.

Community impacts and community involvement:

- None. There was a major Citywide outreach effort culminating in the creation of new LID Code which became effective in January 2003. These Code amendments are minor and does not make any significant changes to LID procedures or roles and incorporates a compilation of technical changes made after administering 54 LIDs. These code changes have been reviewed and approved by the City Attorney and reflect current best practices in administering LIDs.

Budgetary Impact Worksheet

Does this action change appropriations?

YES: Please complete the information below.

NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

mjc 8-4-2020

September 9, 2020 AM Council Meeting

Public Testimony

Item	First	Last	Zip
690	Edith	Gillis	97206