

CHAPTER 87
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87.010. Initiation of Off-Street Parking District. It shall be the duty of the city manager to advise the council of the necessity and expediency for the establishment of motor vehicle off-street parking facilities, and whenever the council shall intend to establish such facilities, it shall by resolution declare such intention. The council shall require the city manager to file with the city recorder a report which shall contain, when applicable, the following information:

- (a) A map or plat showing the general nature, location, and extent of the proposed off-street parking facilities and the land to be assessed for the payment of the cost thereof.
- (b) Plans, specifications and estimates of the work to be done.
- (c) An estimate of the probable cost of the improvement as those costs are defined in section 87.060.
- (d) An estimate of the unit cost of the improvement to the specially benefited properties.
- (e) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or a portion of the cost of the improvement to the properties specially benefited.
- (f) The description of each lot, parcel of land or portion thereof to be specially benefited by said off-street parking facilities, with the names of the record owners thereof and when readily available the names of the contract purchasers thereof. (Ord No. 9-72; Ord No. 51-96)

87.020. Approval of Report. After the city manager's report shall have been filed with the city recorder, the council may approve the report, modify the report and approve it as modified, require the city manager to supply additional or different information for the improvement, or abandon the improvement. The declaration of intention to make the improvement and the approval of the report therefor, may be done at one session of the council and may be included in one resolution. (Ord No. 9-72; Ord No. 51-96)

87.030. Notice of Hearing on Improvement. The resolution whereby the council declares its intention to establish off-street parking facilities shall fix a time and place at which the council will meet and hear objections or protest against said improvement, the cost thereof, or a part of such cost. The city recorder shall give notice of such hearing and such hearing may be continued to a later meeting of the council, either regular, special or adjourned. The notice shall be given by the recorder by publishing same in some daily newspaper published in the City of Salem, Oregon not less than ten days prior to the date of the hearing. A copy of the notice shall also be mailed to the record owner of each parcel of real property

within the boundaries proposed to be assessed, at the address of the record owner as contained in the assessment records in the office of the assessor of the county. In the event there is a purchaser under a recorded land sale contract, the land sale contract purchaser shall be deemed to be the owner. The notice shall contain the following information:

- (a) That the report of the city manager is on file in the office of the city recorder and is subject to public examination.
- (b) That the council will hold a public hearing on the proposed off-street parking facility improvement on a specified date.
- (c) That a description of the property to be specially benefited by the improvement, the owners of the property and the city manager's estimate of the unit cost of the improvement to the property to be specially benefited, and the total cost of the improvement to be paid for by special assessments to benefited properties is on file and subject to public inspection in the office of the city recorder. (Ord No. 9-72; Ord No. 51-96)

87.040. Council Determination. After the conclusion of the hearing, the council shall determine whether to proceed with the proposed improvement, and the council may proceed with the improvement notwithstanding objections and remonstrances thereto. If after the hearing the council determines to proceed, it may at its discretion modify the improvement or the limits of the proposed improvement, and at the same time the council shall determine whether or not the improvement shall be made by the city in its corporate capacity, using its own forces for that purpose, or whether the making of the improvement shall be let out on contract after competitive bids are received. (Ord No. 9-72; Ord No. 51-96)

87.050. Bids and Contract. In case the council shall determine to let the improvement out on contract, the city recorder shall give notice by publication for not less than five successive days in a daily newspaper published in the City of Salem, Oregon which notice shall invite bids for the making of the improvement. After the successful bidder has been determined, the mayor and recorder shall, on behalf of the city, sign the contract between the city and the contractor. The right to the city shall be reserved to reject any or all bids or accept any bid in the best interest of the city. (Ord No. 9-72)

87.060. Assessment of Cost Generally. In case the council determines to proceed with the off-street parking facilities wholly or partly at the expense of the benefited property after the hearing has been held as in SRC 87.030 provided, the council may, either before or after completion of the work of said improvement, assess upon each lot, or part thereof or parcel of land benefited by said improvement, its proportionate share of the cost of such improvement. For the purposes of this section cost of improvement shall include payment to the contractor, if said improvement be done by and through a contractor, and all city labor, material, supplies, engineering, architect fees, equipment rental including rental for use of city owned machinery, preparation of preliminary plans, specifications, and estimates, cost of acquiring descriptions of property, cost of acquisition of real property, advertising and other costs incurred by the city in making the improvement in its corporate capacity or having the work done by and through a contractor, together with a sum equal to ten percent of said cost of improvement to cover supervision, clerical, legal, administrative, interest during construction and miscellaneous or incidental expenses. Cost of improvement may be based or figured upon an estimated cost where the council determines to assess before completion of the work. (Ord No. 9-72; Ord No. 51-96)

87.070. Notice to Property Owners of Proposed Assessment. Before levying any assessment for off-street parking facilities, the city recorder shall cause notice to be given to the affected property owners in the same manner as provided for street, sewer, and water improvements in chapter 21 of this Code. (Ord No. 9-72)

87.080. Assessment Ordinance. After the public hearing on the proposed improvement and after the

council has determined to proceed with the improvement, and after giving notice of proposed assessment as provided in SRC 87.070, the council may pass an ordinance assessing the various lots, parcels of land, or part thereof, to be specially benefited, with their apportioned share of the cost of the improvement, but the passage of the assessment ordinance may be delayed until the contract for the work is let, or until the improvement is completed and the total cost thereof is determined. (Ord No. 9-72)

87.090. Method of Assessment and Alternative Methods of Financing. In financing off-street parking facilities, the city may use any of the methods set forth in ORS 223.825. The council in adopting a method of assessment may:

- (a) Use a just and reasonable method of determining the extent of an improvement consistent with the benefits derived.
- (b) Use a method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.
- (c) Authorize payment by the city of all, or part, of the cost of the improvement. (Ord No. 9-72)

87.100. Appeals. A person aggrieved by the assessment made under this chapter, may, within 20 days from the passage of the ordinance levying the assessment by the council, appeal to the circuit court of the state for Marion County, the appeal, requirements, and formality thereof shall be heard, governed, and determined, and the judgment rendered and enforced in the manner provided for appeals from assessments contained in ORS Chapter 223 and any amendments thereto. The results of the appeal 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 No. 9-72)

87.110. Assessment Procedures. All applicable provisions of Title II of this Code relating to general assessment procedures, separation, and correction of assessments, collection of assessments and lien foreclosure shall apply to assessments levied for off-street parking facilities under the provisions of this chapter. (Ord No. 9-72)

87.120. Deficit Ordinance. Where an assessment shall have been made before the completion of any parking facility improvement and the actual cost ascertained and it is found the sums assessed therefore upon any lot or parts thereof is (are) not sufficient to defray the cost thereof, the council shall then ascertain the deficit and declare the same by ordinance. Once so declared, the finance director shall enter the sum of the deficit in the docket of city liens, in a column reserved for that purpose in the original entry, with the date thereof, and such deficit shall thereafter be a lien upon such lot or part thereof, in like manner and with like effect as in the case of the sum originally assessed, and shall also be payable and may be collected in like manner and with like effect as in the case of such sum so assessed. Provided, however, before any such deficit ordinance is passed the council shall hold a hearing to consider any objections thereto. Notice of such hearing shall be given as provided in SRC 87.070. (Ord No. 9-72)

87.130. Overplus Ordinance. Where an assessment shall have been made before the completion of any parking facility improvement and the actual cost ascertained, and it is found that the sum assessed therefore upon any lot or part thereof is more than sufficient to defray the cost thereof, the council shall ascertain and declare the surplus in like manner as in the case of a deficit. When so declared, it shall be entered as in the case of a deficit in the docket of city liens. Thereafter, the person who paid said surplus, or his or her assigns or legal representative, shall be entitled to repayment of the same by the finance director. (Ord No. 9-72)

87.140. Abandonment of Proceedings. The council shall have full power and authority to abandon and rescind proceedings for improvement made under this chapter at any time prior to the final completion of the improvements. If liens have been assessed on property under the procedure herein, they shall be

canceled, and payments made on the assessments shall be refunded to the person paying the same, his or her assigns or legal representative. (Ord No. 9-72; Ord No. 51-96)

87.150. Curative Provisions. No parking facility improvement assessment shall be rendered invalid by reason of a failure of the city manager's report to contain all of the information required by SRC 87.010 or by reason of a failure to have all of the information required to be in the improvement ordinance, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the record owner of property as required by this chapter, or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The council shall have the power and authority to remedy and correct all matters by suitable action and proceedings. (Ord No. 9-72; Ord No. 51-96)

87.160. Reassessment. Whenever an assessment, deficit assessment, or reassessment for an improvement which has been made by the city has been, or shall be, set aside, annulled, declared, or rendered void, or its enforcement restrained by a court of this state, or a federal court having jurisdiction thereof, or when the council shall be in doubt as to the validity of the assessment, deficit assessment or reassessment, or a part thereof, then the council may make a reassessment in the matter provided by the laws of this state. (Ord No. 9-72)

87.170. Application to New or Existing Facility. The procedures described in this chapter shall be applicable to either the development by the city of off-street parking facilities or to the purchase of or financing of existing off-street parking facilities. (Ord No. 9-72)

(CHAPTERS 88 AND 89 RESERVED FOR EXPANSION)