Chapter 223

1979 REPLACEMENT PART

City Improvements and Works Generally

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CONDEMNATION FOR CITY IMPROVEMENTS; SPECIAL PROCEDURE

223.005 Condemnation for public use within and without city limits. Any incorporated city may:

(1) Appropriate any private real property, water, watercourse and riparian rights to any public or municipal use or for the general benefit and use of the people of the city, including but not limited to appropriation for an aviation field, park, city hall, city buildings, jail, or to protect the city from overflow by freshets.

(2) Appropriate any real property, water, watercourse and water and riparian rights, including power sites, to any public or municipal use or for the general benefit and use of the people within or without the city, and to build dams, reservoirs and conduits for the purpose of storing and using water to aid in developing the necessary power to generate electricity for the use and benefit of the people within or without the city.

(3) Condemn for its use private property for the purpose of erecting and maintaining electric lines thereon for the purpose of generating and conveying power to light and heat the city, and to be used and sold by the city for manufacturing, transportation, domestic and other purposes, either within or without the corporate limits of the city, and for the purpose of constructing electrical systems for municipal uses. [Amended by 1971 c.134 §1]

223.010 Right of city to enter upon, survey, examine and select property to be condemned. For the purposes of ORS 223.005, a city may enter upon, survey, examine and select any such property or rights for the purpose of constructing any ditch, drain, dam, dike, canal, flume, sewer, reservoir, septic tank, filter bed, sewer form or purifying plant or laying or constructing and maintaining any pipe, sewer, drain, aqueduct, dam, dike, canal, flume, reservoir, septic tank, filter bed, sewer form or purifying plant or other plant, building or electric lines or system for municipal uses, including but not limited to, aviation fields, parks, city hall, city buildings, jails, docks, piers, slips, shore and terminal structures. [Amended by 1971 c.134 §2]

223.015 Manner of condemnation; compensation. After selection of such rights and property under ORS 223.010 in such manner as the council provides, the city seeking to make the appropriation may proceed in the manner prescribed by the statutes for the appropriation of land for corporate purposes, and not otherwise, unless otherwise provided by law, to have such property appropriated and the compensation therefor determined and paid. However, the compensation for such condemnation by a city shall be paid by a deposit in the court of an order drawn upon the city treasurer for the amount of compensation.

223.020 Scope of condemnation. Appropriation of property under ORS 223.005 may extend beyond the corporate limits of the city to or along and including any lake, spring, stream or power site.

223.025 [Repealed by 1963 c.297 §1]

223.030 [Repealed by 1963 c.297 §1]

223.035 [Repealed by 1963 c.297 §1]

223.040 [Repealed by 1963 c.297 §1]

MUNICIPAL CONDEMNATION PROCEEDINGS

223.105 Proceedings to condemn property for city improvements when owner and city disagree on price. (1) The provisions of ORS 223.105 to 223.175 (1969 Replacement Part) apply to every city, whether organized under general law or otherwise.

(2) Whenever the council of any incorporated city deems it necessary to take or damage private property for the purpose of establishing, laying out, extending or widening streets, or other public highways and places within any city, or for right of ways for drains, sewers or aqueducts, or for widening, straightening or diverting channels of streams and the improvement of waterfronts, and the council cannot agree with the owner of the property as to the price to be paid, the council may direct proceedings to be taken under the general laws of this state to procure the same.

223.110 [Repealed by 1971 c.741 §38]

223.115 [Repealed by 1971 c.741 §38]

223.120 [Repealed by 1971 c.741 §38]

223.125 [Repealed by 1971 c.741 §38]

223.130 [Repealed by 1971 c.741 §38]

223.135 [Repealed by 1971 c.741 §38]

223.140 [Repealed by 1971 c.741 §38]

223.145 [Repealed by 1971 c.741 §38]

223.150 [Repealed by 1971 c.741 §38]

223.155 [Repealed by 1971 c.741 §38]

223.160 [Repealed by 1971 c.741 §38]

223.165 [Repealed by 1971 c 741 §38]

223.170 [Repealed by 1971 c.741 §38]

223.175 [Repealed by 1971 c.741 §38]

FINANCING IMPROVEMENTS IN CITIES (BANCROFT BONDING ACT)

223.205 Definitions; scope and application; validation of bond issues by cities of 100,000 or more. (1) "Bancroft Bonding Act" as used in this chapter means ORS 223.205 and 223.210 to 223.295.

(2) "Improvement" as used in the Bancroft Bonding Act has the meaning given the term "local improvement" by ORS 223.387.

(3) The provisions of the Bancroft Bonding Act are not mandatory. Any incorporated city having charter provisions, or ordinance provisions authorized by charter, for bonding improvement assessments and selling bonds may follow those provisions or the provisions of the Bancroft Bonding Act, or the provisions of any other statute.

(4) All bonds issued prior to March 20, 1939, in accordance with the charter provisions of any city which, as of March 20, 1939, has or after that date attains a population of 100,000 or more inhabitants, according to the published federal census, and all action taken and proceedings adopted by a city prior to that date for issuing bonds in accordance with charter provisions are ratified, approved and confirmed. [Amended by 1957 c.103; §1; 1959 c.653 §1; 1965 c.282 §2; 1975 c.642 §1]

223.207 Purpose of ORS 223.208. The Legislative Assembly hereby declares that the purpose of ORS 223.208 and this section is to provide purchasers of homes or multifamily dwellings with Bancroft financing of systems development charges as an alternative to absorbing those charges into the long-term permanent financing of their homes. [1977 c.722 §2]

223.208 Systems development and connection charges of cities and counties subject to Bancroft Act. (1) Subject to subsection (3) of this section, the rights and duties accorded cities and the owners of property for financing and assessments under ORS 223.205 to 223.785 shall apply to:

(a) A systems development charge designed to finance the construction, extension or enlargement of a street, community water supply, storm sewer or sewerage or disposal system as defined in ORS 199.464 imposed by a city as a condition to issuance of any occupancy permit or imposed by a city at such other time as, by ordinance, it may determine.

(b) That portion of a connection charge imposed by a city which is greater than the amount necessary to reimburse the city for its costs of inspection and installing connections with city mains.

(2) Subject to subsection (3) of this section, the rights and duties accorded a city and the owners of property in a city for financing and assessments under ORS 223.205 to 223.785 shall apply in the same manner to counties for purposes of financing systems development charges described in paragraph (a) of subsection (1) of this section and the charge described in paragraph (b) of subsection (1) of this section.

(3) Notwithstanding ORS 223.230, the financing of systems development or connection charges under this section may, at the option of the city governing body, be a second lien on real property, which lien shall be inferior only to the mortgage or other security interest held by the lender of the owner's purchase money. Bonds issued under this section shall be issued separately from bonds otherwise issued under ORS 223.205 to 223.785 and shall comply with all applicable federal regulations. [1977 c.722 §3; 1979 c.837 §1]

223.210 Right of property owners to apply for instalment payment of assessment. (1) Whenever in any incorporated city the common council, board of trustees, or other competent authority of such city has proceeded to cause any improvement to be constructed or made within the corporate limits thereof, and has assessed the costs of such improvement to the property benefited thereby or liable therefor, according to the provisions of the charter or ordinances of such city, the owner of any property so assessed for such improvement in the sum of $25 or more, at any time within 10 days after notice of such assessment is first published, may file with the auditor, clerk or other city officer, who, by the provisions of the charter, keeps the records of such city, a written application to pay:

(a) The whole of the assessment in instalments; or

(b) If part of the assessment has been paid, the unpaid balance of the assessment in instalments.

(2) At the option of the city written applications may be filed after 10 days after notice of assessment is first published. [Amended by 1957 c.103 §2; 1957 c.397 §1; 1967 c.239 §1]

223.212 Right of educational, religious, fraternal or charitable organizations and public corporations to bond the assessment. Any educational, religious, fraternal or charitable organization or public corporation owning property assessed for its proportionate share of the cost of constructing an improvement as defined in subsection (2) of ORS 223.205 shall have the same right to bond the assessment therefor and having bonded the assessment shall be subject to the same duties and liabilities as a natural person bonding an assessment. However, the limitations on the amount of an assessment that may be bonded do not apply to an educational, religious, fraternal or charitable organization or public corporation; and such organizations and corporations shall be permitted to bond to the full extent of such assessments. [1957 c.95 §2]

223.215 Contents of application to pay in instalments. The written application shall state that the applicant and property owner does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to cause said improvement to be constructed or made for which the assessment is levied and in the apportionment of the cost thereof. The application shall provide that the applicant and property owner agrees to pay the assessment in equal semiannual instalments over a period not to exceed 30 years, as the common council or other governing body of the city may provide, with interest at seven percent per annum on all the assessments which have not been paid. The application shall also contain a statement, by lots or blocks, or other convenient description, of the property of the applicant assessed for such improvement. [Amended by 1957 c.103 §3; 1959 c.653 §2; 1969 c.531 §1; 1971 c 100 §1; 1975 c.320 §1]

223.220 Applications; when accepted and refused. No application as provided by ORS 223.215 shall be received and filed if the amount remaining unpaid upon such assessment together with the unpaid balance of any previous assessments for improvements against the same property equals or exceeds double the assessed valuation of the property, as shown by the last county tax roll. [Amended by 1957 c 103 §4; 1957 c.397 §2; 1975 c 642 §2]

223.225 Record of application to be kept. The auditor, clerk or other officer charged with keeping the records of the city, shall:

(1) Keep all applications filed under ORS 223.210 in convenient form for examination. The applications received for each improvement shall be separate.

(2) Enter in a book kept for that purpose, under separate heads for each improvement, the date of filing of each application, the name of the applicant, a description of the property and the amount of the assessment, as shown in the application. [Amended by 1957 c.103 §5]

223.230 Bond lien docket; interest rate; priority. After expiration of the time for filing application under ORS 223.210, the auditor, clerk or other officer, shall enter in a docket kept for that purpose, under separate heads for each street, sewer, water main, or off-street motor vehicle parking facility, by name or number, a description of each lot or parcel of land or other property against which the assessment is made, or which bears or is chargeable for the cost of the improvement, with the name of the owner and the amount of the unpaid assessment. This docket shall stand thereafter as a lien docket as for taxes assessed and levied in favor of the city, and for the amounts of such unpaid assessments therein docketed, with interest on the unpaid assessments at the percent per annum fixed by ORS 288.510, against each lot or parcel of land or other property, until the assessments and interest are paid in the manner provided in the Bancroft Bonding Act. All unpaid assessments and interest are a lien on each lot or parcel of land or other property, respectively, in favor of the city, and such liens shall have priority over all other liens and encumbrances whatsoever. [Amended by 1957 c.103 §6; 1959 c.653 §3; 1969 c 531 §2; 1975 c.642 §2a]

223.235 Issuance of bonds; limitations. When in any city a bond lien docket is made up, as provided in ORS 223.230, as to assessments for any improvement, the city shall by ordinance authorize the issue of its bonds in convenient denominations, not exceeding $5,000 each, and in all equal to the total amount of unpaid assessments for improvements, and for which applications to pay under the Bancroft Bonding Act have been

filed, as shown by the bond lien docket. In lieu thereof, the city may authorize, by ordinance, a bond equal to the total amount of unpaid assessments for improvements, and for which applications to pay under the Bancroft Bonding Act have been filed, as shown by the bond lien docket. Such bond may be converted to bonds in denominations as specified by the purchaser. Bonds issued for any off-street motor vehicle parking facility, where the assessments levied run for more than 10 years but not more than 30 years, shall be issued separately and shall not include assessments levied for other improvements. [Amended by 1957 c.103 §7; 1959 c.653 §4; 1967 c.196 §1; 1975 c.320 §2; 1975 c.738 §1]

223.240 Form of bonds; maturity dates; payment of principal and interest. The bonds shall, by their terms, be the general obligations of the city issuing such bonds, be in serial form with definite maturity dates to be determined by the governing body of the city and shall mature in annual or semiannual instalments. Should the city governing body so elect, such portion of the particular issue of bonds as matures after one year from issue date may be made subject to call and redemption on such interest dates on or after the first year from issue date, as the city governing body shall designate. The first instalment of principal of each issue of such bonds shall become due and payable not later than two years, from the date of issue, and the last instalment thereof not later than 30 years, from the date of the first instalment payment on the principal amount. [Amended by 1959 c.653 §5; 1971 c 100 §2; 1975 c.320 §3; 1975 c.642 §3]

223.245 Instalments to permit annual tax levy for retirement; fractional bonds; inclusion in city budget. The instalments of principal of the bonds shall be equal or substantially equal in amount, or the combined annual instalments of principal of and interest on the bonds shall be, as nearly as practicable, in such sums as will permit of a substantially uniform annual tax levy for the retirement of the principal of and the payment of the interest on the bonds as they respectively become due. Fractional bonds in denominations of less than $500 comprising part of an issue shall be numbered with the number 1 and shall be included in the amount of the first instalment of maturing bonds. The interest on the bonds and the amounts of such instalments of maturing bonds shall be included in the annual budget of the city, and there shall be deducted in the budget such an amount as the city governing body conservatively estimates will be received from payments of the principal of and interest on instalments of assessments appertaining to the particular bond issue, and from receipts from sales and rentals of property acquired by the city pursuant to such assessments, during the year for which the levy is made.

223.250 Interest rate; notice of bond call. The bonds shall be payable in lawful money of the United States, and bear interest payable semiannually at a rate not to exceed the percent per annum fixed by ORS 288.510, the interest obligations to be evidenced by coupons attached to such bonds. Notice stating that certain bonds are to be called for redemption upon optional payment dates, and that the interest thereon shall cease upon the interest payment date upon which the bonds are called, shall be published in a newspaper published and generally circulated within the boundaries of the issuer or, if there is no such newspaper, then in a newspaper having a general circulation within its boundaries, at least 30 days prior to that date. After that date interest upon the bonds designated in the notice shall cease. [Amended by 1971 c.183 §1; 1975 c.642 §4]

223.255 Execution, authentication and registration of bonds. The bonds, before issuance, shall be executed with either the autograph or facsimile signature of the mayor or other executive head of the city, countersigned by the finance officer, auditor or other recording officer of the city and authenticated by the seal of the city attached, either manually or printed, thereto; and shall be registered consecutively, by number and denomination of each, in a book to be kept by the auditor or recording officer of such city, to be known and designated as the "Improvement Bond Register." Each of the bonds shall have distinctly and plainly inscribed or printed on the face thereof the registered number of the bond and the words "Improvement Bond," with the name of the city issuing it. [Amended by 1957 c.103 §8; 1967 c.239 §2]

223.260 Sale of bonds; disposition of proceeds from bond sales. The bonds shall be advertised for sale and sold in the manner prescribed in ORS 287.014 to 287.026. The proceeds thereof shall be paid by the purchaser to the city treasurer and the par value thereof credited to the respective improvement fund for which the bonds are issued. The accrued interest and premium accruing from

the sale of the bonds shall be credited to the general fund of the city, the fund from which interest is paid on improvement warrants, or to the improvement bond sinking fund, as the common council or other competent authority shall direct. [Amended by 1957 c.103 §9; 1975 c.642 §5]

223.265 Payment of instalments; due dates. There shall be due and payable semiannually for not to exceed 30 years, as the common council or other governing body of the city may provide, to the city treasurer by the owner of each lot or parcel of land assessed for any improvement, whose application to pay the cost of such improvement by instalments has been filed as provided in ORS 223.210 to 223.220, such percentage of such cost assessed against the property of such owner, as may be provided by the common council or other governing body of the city, as appears by the bond lien docket described in ORS 223.230, with the amount of one-half of one year's interest at not to exceed seven percent per annum on unpaid assessments or instalments. The first payment shall be due and payable at the expiration of six months from the date of assessment in the bond lien docket, and subsequent payments at the expiration of each semiannual period thereafter. [Amended by 1957 c.103 §10; 1959 c.653 §6; 1969 c.531 §3; 1971 c.100 §3; 1975 c.320 §4]

223.270 Procedure for collection on default. Should the owner neglect or refuse to pay instalments under ORS 223.265 as they become due and payable for a period of one year, then the council or other legislative body of the city may, by reason of such neglect or refusal to pay the instalments, and while the neglect and refusal to pay continues, pass a resolution giving the name of the owner then in default in the payment of the sums due, either principal or interest, together with a description of the property upon which the sums are owning and declaring the whole sum, both principal and interest, due and payable at once. It may then proceed at once to collect all unpaid instalments and to enforce collection thereof, with all penalties added thereto, in the same manner in which delinquent street and sewer assessments are collected, pursuant to the terms of the city charter.

223.275 Notice to pay; receipts and entries on lien docket. The auditor or other recording officer charged with keeping the city records shall, when instalments and interest on any assessment in the bond lien docket are due, make the proper extensions of such instalments and interest on the bond lien docket and turn the same over to the city treasurer. The treasurer then shall notify the property owner that the instalments are due and payable, but a failure of any owner to receive such notice shall not prevent collection of the instalment as provided in ORS 223.270. The city treasurer shall issue a receipt to the person paying the instalments and interest, and shall file duplicates of the receipts with the auditor or other recording officer. When the treasurer returns the bond lien docket, the auditor or other recording officer shall make the proper entries on the bond lien docket showing the amount of each payment and the date thereof.

223.280 Right of owner to prepay balance and discharge lien. At any time after issuance of the bonds, any owner at the time being of any property against which the assessment is made and lien docketed may pay into the city treasury the whole amount of assessment for which such lien is docketed, together with the full amount of interest and costs accrued thereon to such date of payment. Upon producing to the auditor or other city recording officer the receipt of the city treasurer, the auditor or other recording officer shall enter in the lien docket opposite the entry of the lien the fact and date of such payment and that the lien is discharged.

223.285 Separate funds kept for moneys received; investments by city authorized. Any city treasurer receiving any funds accruing by virtue of the Bancroft Bonding Act, shall account for such funds separately from other city funds. The amount of such moneys paid on account of instalments, and interest on unpaid instalments, shall be placed to the credit of a fund to be known and designated as "Bancroft Bond Redemption Fund." All interest and principal due on improvement bonds shall be paid from the redemption fund. The amount placed to the credit of the redemption fund shall from time to time, under the direction of the city council or other competent authority, be invested as provided in ORS 294.035 or 294.805 to 294.895. [Amended by 1975 c.495 §1]

223.290 Payments entered on lien docket; lien discharge. Entries of payments of instalments, interest and costs, made under the Bancroft Bonding Act, shall be made in

the lien docket as they are received, with the date thereof, and such payments so made and entered shall discharge the lien to the amount of such payment and from the date thereof.

223.295 Limit on city indebtedness. (1) A city may incur indebtedness in the form of bonds and other obligations by virtue of the Bancroft Bonding Act to an amount which, exclusive of indebtedness for municipal utilities but inclusive of all other indebtedness of the city, shall not exceed .09 of the latest true cash valuation of the city. Regardless of the above limitation, a city may issue bonds under said Act in an amount not exceeding .03 of the latest true cash valuation of the city.

(2) "Municipal utilities," as used in subsection (1) of this section, includes city-operated gas, water, lighting and sewage disposal plants, and sanitary or storm sewers, railroads, hospitals, infirmaries, parking facilities and other like municipal projects, that for a period of one year next preceding the date of issuance of the improvement bonds or warrants, had been wholly self-supporting from fees and service charges, without the necessity of a tax levy therefor. For the purposes of this section an unqualified certificate from the Division of Audits of the office of the Secretary of State that a municipal utility has been thus self-supporting for the prescribed period shall be proof thereof.

(3) The indebtedness incurred by virtue of the Bancroft Bonding Act shall be determined by deducting from the sum total of outstanding improvement bonds and improvement warrants issued pursuant to the provisions of that Act or of any city charter, and of any outstanding bonds issued to fund those warrants and of outstanding bonds issued to refund any of said bonds, the aggregate of sinking funds or other funds applicable to the payment thereof, less the aggregate of overdrafts, if any, in the improvement bond interest fund. [Amended by 1955 c.28 §1; 1955 c.686 §1; 1959 c.653 §7; 1963 c.545 §2; 1965 c.282 §3]

223.300 [Repealed by 1975 c.642 §26]

223.305 [Repealed by 1971 c.325 §1]

223.310 [Amended by 1957 c.397 §3; repealed by 1971 c.325 §1]

223.312 [1957 c.95 §4; repealed by 1971 c.325 §1]

223.315 [Repealed by 1971 c.325 §1]

223.320 [Amended by 1957 c.397 §4; repealed by 1971 c.325 §1]

223.325 [Repealed by 1971 c.325 §1]

223.330 [Amended by 1969 c.531 §4; repealed by 1971 c.325 §1]

223.335 [Repealed by 1971 c.325 §1]

223.340 [Repealed by 1971 c.325 §1]

223.345 [Repealed by 1971 c 325 §1]

223.350 [Repealed by 1971 c.325 §1]

223.355 [Amended by 1969 c.531 §5; repealed by 1971 c.325 §1]

223.360 [Repealed by 1971 c.325 §1]

223.365 [Repealed by 1971 c.325 §1]

223.370 [Repealed by 1971 c.325 §1]

223.375 [Repealed by 1971 c.325 §1]

223.380 [Repealed by 1971 c.325 §1]

223.385 [Repealed by 1971 c.325 §1]

ASSESSMENTS FOR LOCAL IMPROVEMENTS

223.387 Definitions for ORS 223.387 to 223.399; description of real property; effect of error in name of owner. As used in ORS 223.387 to 223.399, unless the content requires otherwise:

(1) "Local improvement" means:

(a) The grading, graveling, paving or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade of or constructing any street.

(b) The construction or reconstruction of sidewalks.

(c) The installation of ornamental street lights.

(d) The installation of underground wiring or related equipment.

(e) The reconstruction or repair of any street improvement mentioned in this subsection.

(f) The construction, reconstruction or repair of any sanitary or storm sewer or water main.

(g) The acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facility.

(h) The construction, reconstruction or repair of any flood control dike or dam.

(i) The construction, reconstruction, installation and equipping of a park, playground or neighborhood recreation facility.

(j) Any other local improvement for which an assessment may be made on the property specially benefited.

(2) "Council" means city council or other controlling body of a city.

(3) "Recorder" means the auditor, recorder, clerk or other person or officer of a city serving as clerk of the city or performing the clerical work of the city.

(4) "Owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the county assessor.

(5) "Lot" means lot, block or parcel of land.

(6) (a) Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

(b) If the owner of any land is unknown such land may be assessed to "unknown owner," or "unknown owners." If the property is correctly described, no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the 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 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 a court of equity would hold it to be good and sufficient.

(c) Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment for a special improvement district, foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing special assessments for special benefits to such property.
[1959 c.219 §1; 1965 c.282 §4; 1971 c.198 §1]

223.389 Procedure in making local assessments for local improvements. The council may prescribe by ordinance or resolution the procedure to be followed in making local assessments for benefits from a local improvement upon the lots which have been benefited by all or part of the improvement, to the extent that the city charter does not prescribe the method of procedure. The ordinance or resolution prescribing the same shall provide for adoption or enactment of an ordinance or resolution designating the improvement as to which an assessment is contemplated, describing the boundaries of the district to be assessed. Provision shall be made for at least 10 days' notice to owners of property within the proposed district in which the local improvement is contemplated, which notice may be made by posting, by newspaper publication or by mail, or by any combination of such methods. Such notice shall specify the time and place where the council will hear and consider objections or remonstrances to the proposed improvement by any parties aggrieved thereby. If the council determines that the local improvement shall be made, when the estimated cost thereof is ascertained on the basis of the contract award or city departmental cost, or after the work is done and the cost thereof has been actually determined, the council shall determine whether the property benefited shall bear all or a portion of the cost. The recorder or other person designated by the council shall prepare the proposed assessment to the respective lots within the assessment district and file it in the appropriate city office. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amounts of assessment proposed on that property and shall fix a date by which time objections shall be filed with the recorder. Any such objection shall state the grounds thereof. The council shall consider such objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing

thereto from the improvement, and shall by ordinance spread the assessments. [1959 c.219 §2]

223.391 Notice of proposed assessment to owner of affected lot. Whenever a notice is required to be sent to the owner of a lot affected by a proposed assessment, such notice shall be addressed to the owner or his agent. If the address of the owner or of the owner's agent is unknown to the recorder, he shall mail the notice addressed to the owner or his agent at the city where such property is located. Any mistake, error, omission or failure with respect to such 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 where such property is located. [1959 c.219 §3]

223.393 Assessments become liens. Assessments shall become a lien upon the property assessed from and after the passage of the ordinance spreading the same and entry in appropriate city lien record. The city may enforce collection of such assessments as provided by ORS 223.505 to 223.650. [1959 c.219 §4]

223.395 Deficit assessments or refunds when initial assessment based on estimated cost. If the initial assessment has been made on the basis of estimated cost, and upon the completion of the work the cost is found to be greater than the estimated cost, the council may make a deficit assessment for the additional cost. Proposed assessments upon the respective lots within the assessment district for the proportionate share of the deficit shall be made; and notices shall be sent; opportunity for objections shall be given; such objections shall be considered; and determination of the assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment; and the deficit assessment spread by ordinance. If assessments have been made on the basis of estimated cost, and upon completion the cost is found to be less than the estimated cost, provision shall be made for refund of the excess or overplus. [1959 c.219 §5]

223.397 [1959 c 219 §§6, 7; repealed by 1963 c 507 §1]

223.399 City's powers concerning assessments for local improvements. The council may impose additional procedural requirements. The procedural provisions of ORS 223.387 to 223.399 shall apply only where the city charter or ordinance does not specify otherwise, and shall apply to local improvements permitted by law and shall not authorize such an improvement prohibited by percentage of remonstrance or otherwise. [1959 c.219 §8; 1965 c.133 §1]

223.401 Review of assessment. Notwithstanding any of the provisions of ORS 223.387 to 223.399, owners of any property against which an assessment for local improvements has been imposed may seek a review thereof under the provisions of ORS 34.010 to 34.100. [1965 c.133 §2]

REASSESSMENT

223.405 Definitions for ORS 223.405 to 223.485. As used in ORS 223.405 to 223.485, unless the context requires otherwise:

(1) "Local improvements" has the meaning given that term by ORS 223.387.

(2) "Council" means city council or other controlling body of a city.

(3) "Recorder" means the auditor, clerk or other person or officer of a city serving as clerk of the city or performing the clerical work of the city.

(4) "Lots" means lots, blocks or parcels of land.

(5) "Objection" includes remonstrances. [Amended by 1965 c.282 §5]

223.410 Authority of city to make reassessment. Whenever all or part of any assessment for improvements was or is declared void or set aside for any reason or its enforcement refused by any court by reason of jurisdictional or other defects in procedure, whether directly or by virtue of any court decision or when the council is in doubt as to the validity of all or part of any such assessment by reason of such defects in procedure, the council may by ordinance make a new assessment or reassessment with respect to all or part of the original assessment upon the lots which have been benefited by all or part of the improvement to the extent of their respective and proportionate shares of the full value of such benefit.

223.415 Basis for, amount and method of reassessment. The reassessment shall be based upon the special and peculiar benefit of the improvement to the respective lots at the time of the original making of the improvement. The amount of the reassessment shall not be limited to the amount of the original assessment but the property embraced in the reassessment shall be limited to property embraced in the original assessment. However, property on which the original assessment was paid in full shall not be included in the reassessment. Interest from the date of delinquency of the original assessment may be added by the council to the reassessment in cases where the property was included in the original assessment, but such interest shall not apply to any portion of the reassessment that exceeds the amount of the original assessment. The reassessment shall be made in an equitable manner as nearly as may be in accordance with the law in force at the time the improvement was made, but the council may adopt a different plan of apportioning benefits or exclude portions of the district when in its judgment it is essential to secure an equitable assessment. Credit shall be allowed on the new assessment for all payments made on the original assessment.

223.420 Effect of reassessment; exceptions. The reassessment when made shall become a charge upon the property upon which it is laid notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of the charter or law connected with or relating to the improvement and original assessment or any previous reassessment, and although the proceedings of the council or the acts of any officer, contractor or other person connected with the improvement or assessment may have been irregular or defective, whether such irregularity or defect was jurisdictional or otherwise. The reassessment shall not be made in case of any improvement wherein a remonstrance sufficient in law to defeat it has been duly filed prior to the making of the improvement.

223.425 Council resolution to reassess. The proceedings required by the charter or other law for making of the original assessment are not required with reference to the making of a reassessment. The reassessment shall be initiated by adoption of a resolution designating the improvement as to which a reassessment is contemplated, describing the boundaries of the district that the council contemplates for the reassessment and directing the recorder or other person to prepare a proposed reassessment upon the property included within the district. After passage of such resolution, the recorder or other person shall prepare the proposed reassessment and file it in the office of the recorder.

223.430 Publication of notice of reassessment; contents. After the proposed reassessment is filed in his office, the recorder shall give notice thereof by not less than four successive publications in a newspaper published in the city and, if there is no newspaper published in the city, in a newspaper to be designated by the council. The notice shall show that the proposed reassessment is on file in the office of the recorder, giving the date of the passage of the resolution authorizing it, the boundaries of the district or a statement of the property affected by the proposed reassessment, and specifying the time and place where the council will hear and consider objections to the proposed reassessment by any parties aggrieved thereby.

223.435 Personal notice to each owner; right to file objections. The recorder shall, within five days after the date of first publication of the notice, mail or personally deliver to the owner of each lot affected by the proposed reassessment, or to the agent of such owner, a notice of the proposed reassessment, stating the matters set out in the printed notice and also the amount proposed to be charged against the lot. If the address of the owner or of the owner's agent is unknown to the recorder, he shall mail the notice addressed to the owner or owner's agent at the city where such property is located. Any mistake, error, omission or failure with respect to such mailing shall not be jurisdictional or invalidate the reassessment proceedings. The owners of any property included in the description of the printed notice, or any person having an interest in that property, may, within 10 days from the day of last insertion of the printed notice, file in writing with the recorder objections against the proposed reassessment.

223.440 Hearing on objections; revision of reassessment. At the time and place appointed in the notice the council shall hear and determine all objections filed under ORS 223.435. The council may adjourn the hearing from time to time, and correct, modify or revise the proposed reassessment or set it aside and order the making of a new proposed

reassessment. However, if the proposed reassessment is corrected or revised so as to increase the amount proposed to be charged against any property, such reassessment shall not be made until after a new notice has been given as stated in ORS 233.435 to the owners of property against which the amount of assessment is proposed to be thus increased. The publication of the notice may be for not less than two successive insertions in a newspaper as provided in ORS 223.430, and the time when action may be taken thereon may be not less than five days after the date of last insertion. If the proposed reassessment is set aside and a new apportionment ordered, notice shall be given of the new apportionment in the manner stated in ORS 223.430 and 223.435 and action taken thereon as provided in ORS 223.435 and 223.440.

223.445 Reassessment ordinance. When the council has determined what in its judgment is a fair, just and reasonable reassessment, it shall pass an ordinance setting out and making the reassessment. The reassessment so made shall be deemed to be regular, correct, valid and just, except as it may be modified under ORS 223.450 and 223.455.

223.450 Lien docket entry; crediting prior payments. When the reassessment is duly made it shall be entered in the city lien docket. All provisions for bonding and paying by instalments shall be applicable, and such city liens shall be enforced and collected in the manner provided for collection of liens for an original improvement. All sums paid upon the former assessment or any previous reassessment shall be credited to the property on account of which it was paid and as of the date of payment.

223.455 Right of purchaser at sale under prior assessment. In cases where a sale was made under the original assessment or any previous reassessment, with reference to such improvement, and the property was not redeemed from the sale, the purchaser at the sale is subrogated to the rights of the city with reference to the property upon such reassessment if the purchaser waives all penalties and interest, except such interest as may be provided for on the reassessment, and delivers up for cancellation any certificate or other evidence of the sale. If a deed was issued at the sale, the grantee therein, his heirs, executors, administrators, successors or assigns, shall execute a deed of release and quitclaim of all right, title and interest in the property under such sale to the owner of the property and deliver the deed to the recorder, so that the owner's title may be cleared of the sale. The recorder shall act as escrow holder of such certificate or other evidence of sale and of such deed pending completion of reassessment. If the reassessment is not completed, he shall return the certificate or other evidence of sale and the deed to the person delivering it to him. If the reassessment is completed, the certificate or other evidence of sale shall be canceled and placed on file in the office of the recorder and the deed shall be delivered to the owner of the property specified therein. If any such purchaser, his heirs, executors, administrators, successors or assigns fails to comply with this section, he is not entitled to subrogation. In any event, the amount of subrogation shall not exceed the amount which has been paid to the city on such sale, together with interest at the rate of six percent per annum from the date of sale until the date of payment. This amount is to be paid by the city to the purchaser, his heirs, executors, administrators, successors or assigns if and when the city collects the amount of the reassessment against the property.

223.460 [Repealed by 1965 c.71 §1]

223.462 Review of reassessment. Notwithstanding any of the provisions of ORS 223.405 to 223.485, owners of any property against which a reassessment for local improvements has been imposed may seek a review thereof under the provisions of ORS 34.010 to 34.100. [1965 c.71 §4]

223.465 [Repealed by 1965 c.71 §1]

223.470 [Repealed by 1965 c.71 §1]

223.475 [Repealed by 1965 c.71 §1]

223.480 [Repealed by 1965 c.71 §1]

223.485 Additional reassessment procedure; time limitation. (1) The authority granted in ORS 223.405 to 223.455 shall not apply in any incorporated city where the method of reassessment is provided by ordinance or charter.

(2) No proceedings for making a reassessment shall be instituted after 20 years from the date when the first assessment was entered on the lien docket. [Amended by 1965 c.71 §3]

METHODS OF ENFORCING LIENS AND COLLECTING ASSESSMENTS

223.505 Definitions for ORS 223.510 to 223.595. As used in ORS 223.510 to 223.595, unless the context requires otherwise:

(1) "Recorder" means the officer designated by city charter or ordinance as custodian of the lien dockets and charged with keeping records concerning bonded liens and assessments.

(2) "Treasurer" means the officer designated by city charter or ordinance to collect unpaid liens or assessments, take all steps necessary to enforce delinquent liens or assessments and to maintain records pertaining to collection proceedings thereon.

223.510 Authority to sell property for delinquent liens and assessments. In addition to the method provided by law, ordinance or the charter of any incorporated city for the sale of real property for delinquent liens or assessments, every incorporated city may cause the real property to be sold as provided in ORS 223.510 to 223.590 for any assessment, lien or instalment thereof at any time after one year from the date such lien, assessment or instalment becomes due and payable, if bonded; otherwise, at any time after 60 days from the time it is entered in the docket.

223.515 Preparation, transmission and contents of delinquent list. If any instalment on any lien bonded, as provided by law, ordinances or charter of the city, is delinquent for a period of one year from the time it became due and payable, or at any time after 60 days from the time it became due and payable if not bonded, the recorder may thereafter prepare and transmit to the treasurer a list in tabular form, made up from the docket of city liens, or other lien docket, describing each lien, assessment or instalment due on any bonded lien which is so delinquent. The list shall also contain the name of the person to whom assessed, a particular description of the property, the amount of the lien or assessment or the amount of the instalment due on any bonded lien, and any other facts necessary to be given.

223.520 Procedure in collecting delinquencies. Upon receipt of the list described in ORS 223.515, the treasurer shall proceed to collect the unpaid liens or assessments named in the list by advertising and selling the lots or tracts in the manner now provided by law for the sale of real property on execution, except as otherwise provided in ORS 223.525 to 223.580 and except that sale may be made at such place within the corporate limits of such city as may be designated in the notice of sale.

223.523 Notice of sale; publication; personal notice to property owner and occupant. (1) Before a sale of real property under ORS 223.505 to 223.590 takes place, the treasurer shall have notice of the sale printed once a week for four successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the sale will be held. The notice of sale must contain a particular description of the real property to be sold, the name of the owner of the real property, the amount unpaid on the lien or assessment and the time and place of the sale.

(2) The treasurer shall send a copy of the first of the four published notices by registered or certified mail to both the owner of the real property to be sold at his last-known post-office address or place of residence and to the occupant, if any, of the real property to be sold. The treasurer shall retain and file the return receipt for the registered or certified mail. [1977 c.403 §2]

223.525 Conduct of foreclosure sale. Each piece or tract of land shall be sold, separately, and for a sum equal to but not exceeding the unpaid lien or assessment thereon and the interest, penalty and cost of advertising and sale. If there is more than one bid the land shall be sold to the bidder first offering to take it for the amount accrued thereon. No levy upon such lots or parcels of land shall be required except that a notice shall be posted four consecutive weeks before the sale upon every lot or parcel. [Amended by 1977 c.403 §3]

223.530 Title of purchaser. A sale of real property under ORS 223.505 to 223.590 conveys to the purchaser, subject to redemption as provided in ORS 223.565 to 223.590, all estates, interests, liens or claims therein or thereto of any persons, together with all rights and appurtenances thereunto belonging, excepting only the lien of the city on such assessments or liens as are not included in the foreclosure proceedings.

223.535 Record of sales; receipts for lien payments. The treasurer shall enter into columns provided for that purpose in the list transmitted to him by the recorder the date of

the sale, the name of the purchaser and the amount paid for each parcel of property sold. The treasurer shall give a receipt to each person paying any lien or assessment on the delinquent list prior to the sale thereof. The receipt must state separately the lien or assessment, interest and costs collected, and a duplicate of the receipt shall be filed with the treasurer.

223.540 Payment of sale price. Real property when sold for or to satisfy a delinquent assessment or lien, or both, must be sold for lawful money of the United States, except as provided in ORS 223.545.

223.545 Purchase by city in absence of bids. If no bid is received for the sale of the property, the city may purchase the property by bidding therefor the amount of the lien or liens and the cost of advertising and sale. The property may be struck off and sold to the city without actual payment of money.

223.550 Certificate of sale; contents. The treasurer shall immediately, after having sold any real property upon the list described in ORS 223.515, make and deliver to the purchaser a certificate of sale of the property so sold, setting forth therein the object for which the sale was made, a description of the property sold, a statement of the amount it sold for, the lien or assessment for which the property was sold, the name of the purchaser and that the sale is made subject to redemption within one year from the date of the certificate, and then deliver such certificate to the purchaser.

223.555 Lien docket entries mandatory. The treasurer shall, within three days after sale, return to the recorder the delinquent list, with all collections and sales noted thereon. The recorder shall then make proper entries of collections and sales in the appropriate lien docket. Thereafter no transfer or assignment of any certificate of purchase of real property sold under ORS 223.505 to 223.590 is valid unless an entry of such transfer or assignment has been noted by the recorder in said docket.

223.560 Unsold property reoffered; exceptions. If any property remains unsold at the sale, it may, in the discretion of the recorder, again be offered for sale in like manner, but not sooner than three months after the expiration of any sale, except that in the matter of an assessment for the opening, widening, laying out or establishing of a street, proceedings for such sale may be taken immediately.

223.565 Procedure and conditions of redemption. (1) The owner, or his legal representatives, or his successor in interest, or any person having a lien by judgment, decree or mortgage, or owner of a tax lien, on any property sold by virtue of ORS 223.520 may redeem it upon conditions provided in this section. Redemption of any real property sold for a delinquent assessment or lien under the provisions of ORS 223.505 to 223.590 may be made by paying to the treasurer, at any time within one year from the date of the certificate of sale, the purchase price and 10 percent thereof as penalty, and interest on the purchase price at the rate of 10 percent per annum, from the date of the certificate. Where redemption is made by the holder of a tax lien he may have such redemption noted upon the record of his lien in like manner and with like effect as prescribed in this section. Such redemption shall discharge the property so sold from the effect of the sale and, if made by a lien creditor, the amount paid for the redemption shall thereafter be deemed a part of his judgment, decree, mortgage or tax lien, as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

(2) Anyone applying or seeking to redeem property sold under the provisions of ORS 223.505 to 223.590 must pay or offer to pay the sum necessary in lawful money of the United States.

(3) When an individual purchases real property at a foreclosure sale under ORS 223.505 to 223.590, if, with the approval of the city, that purchaser incurs costs for maintaining or improving the property during the period allowed for redemption and if the property is subsequently redeemed, the treasurer may return all or part of the penalty paid by the person redeeming the property to the purchaser as provided by city charter or ordinance. [Amended by 1977 c.403 §4]

223.570 Execution by city and contents of deed to purchaser. After the expiration of one year from the date of the certificate of sale, if no redemption has been made, the treasurer shall execute to the purchaser, his heirs or assigns, a deed of conveyance containing a description of the property sold, the date of the sale, a statement of the amount bid, of the lien or assessment for which the property was sold, that the assessment or lien was unpaid at the time of the

sale and that no redemption has been made. The statement need contain no further recital of the proceedings prior to the sale.

223.575 Legal and evidentiary effect of deed. The effect of the deed shall be to convey to the grantee therein named the legal and equitable title in fee simple, to the real property described in the deed, excepting only the lien of the city on such assessments or liens as were not included in the foreclosure proceedings. The deed shall be prima facie evidence of title in the grantee, except as stated in this section, and that all proceedings and acts necessary to make such deed in all respects good and valid have been had and done. Such prima facie evidence shall not be disputed, overcome or rebutted, or the effect thereof avoided, except by satisfactory proof of either:

(1) Fraud in making the assessment or in the assessment, or in the procuring of the lien.

(2) Payment of the assessment or lien before sale or redemption after sale.

(3) That payment or redemption was prevented by fraud of the purchaser.

(4) That the property was sold for a lien or assessment for which neither the property nor its owner, at the time of sale, was liable, and that no part of the assessment or lien was assessed or levied upon the property sold.

223.580 Grantee of deed entitled to possession. The grantee named in the deed described in ORS 223.570 shall upon delivery thereof be entitled to the immediate possession of the real property therein described.

223.585 Time limitation on actions to recover sold property. Every action, suit or proceeding which may be commenced for the recovery of land sold by the treasurer for any assessment or lien or to quiet the title of the former owner, or his successors in interest, against such sale, or to set aside such sale, or to remove the cloud thereof, except in cases where the assessment or lien for which the land has been sold was paid before the sale, or the land redeemed as provided by law, shall be commenced within one year from the time of recording the deed executed under ORS 223.570.

223.590 Tender of purchase price in action to recover property. In any action, suit or proceeding referred to in ORS 223.585, whether before or after the issuance of the deed, the party claiming to be the owner as against the party claiming under the sale must tender with his first pleading and pay into the court at the time of filing such pleading the amount of the purchase price for which the lands were sold, together with the penalties prescribed by law at the time of the sale, and of all taxes and assessments or liens, or both, levied or made upon or against the land, or any part thereof, which were paid after the sale by the purchaser at the sale, or his heirs or assigns, together with interest thereon at the rate of 10 percent per annum from the respective times of the payment of the purchase price, taxes, assessments or liens, or both, by the purchaser, or his heirs or assigns, up to the time of the filing of the pleading, to be paid to the purchaser, his heirs or assigns, in case the right or title of the purchaser at the sale fails in such action, suit or proceeding.

223.595 Validation of prior foreclosure proceedings. All foreclosure proceedings had or taken prior to May 28, 1927, by any municipal corporation which substantially comply with the provisions of ORS 223.505 to 223.590 hereby are declared to be legal and valid to the same extent as if they were had or taken under those sections.

223.605 Definitions for ORS 223.610 to 223.650. As used in ORS 223.610 to 223.650:

(1) "Liens" means liens, assessments or instalments of assessments and includes any of those terms.

(2) "City" means city, town and other municipal corporation or any of them.

(3) "Lot" means lot, block, parcel or parcels of real property and includes all of them.

223.610 Foreclosure of municipal corporation liens by suits in equity. In addition to methods now provided by law, charters, ordinances or acts of incorporation for the foreclosure or collection of liens, any city may foreclose any lien lawfully levied or assessed by it, by suit in equity in the circuit court of the county in which the city is located.

223.615 City may recover attorney's fees. In any suit authorized by ORS 223.610, if a decree of foreclosure is entered, the city is entitled to recover, as part of the moneys to be made on the sale on execution of the property involved, such sum as the court may deem reasonable as attorney's fees. The sum so allowed shall be a lien upon the property.

223.620 Laws applicable to foreclosure proceedings. Suits authorized by ORS 223.610 shall be governed by ORS 88.010 to 88.100, 93.720, 93.760 and by all other laws relating to suits in equity in so far as applicable, except as otherwise provided in ORS 223.610 to 223.650.

223.625 Liens which may be included in foreclosure suit. In any suit authorized by ORS 223.610, the city may include any number of lots upon which it has delinquent liens though the liens may have been levied under the same or different ordinances. Any number of different delinquent liens may be foreclosed upon the same lot in one suit. If there is more than one delinquent lien on any lot, the various amounts thereof, including accrued interest, penalties, costs and attorney's fees, shall be added together and the total thereof shall be deemed the amount of the lien for which the lot is to be sold.

223.630 Joinder of parties in interest as defendants. In any suit authorized by ORS 223.610, the record owner and all persons and corporations claiming some right, title, lien or interest in and to any lot involved in the suit, and also all other parties or persons unknown claiming any right, title, estate, lien or interest in the real property described therein or any part thereof, may be joined as party defendants.

223.635 Complaint served on owner; issues tried separately. In addition to the service of summons, each record owner of a lot involved in the foreclosure suit shall be served with complaint in the manner provided by law. Any issue made by the pleadings in any foreclosure suit relating only to a certain lot or lots shall be tried separately and determined upon motion of any party in interest therein.

223.640 Allegations of jurisdictional facts. In any suit authorized by ORS 223.610, it shall be a sufficient allegation of jurisdictional facts authorizing the city to make and levy any lien if the complaint alleges in general terms that the improvement was made in the manner and as provided by law, by the city charter, ordinances, resolutions, or any of them, relating to such improvement. It is not necessary to specifically set forth in the complaint any such charter provisions, ordinances or resolutions.

223.645 Right of city to bid at execution sale. The city may bid at the sale on execution of the property involved in the foreclosure suit any amount not exceeding the sum found by the decree of the court to be due upon the city's lien, together with interest, costs, penalties and attorney's fees, and it may credit the amount of its bid upon the execution.

223.650 Redemption; no deficiency judgment. The time and manner for redemption of property from sales on execution in suits authorized by ORS 223.610 shall be the same as provided by law for the redemption of real property from sales on execution. The amount to be paid on redemption under this section shall be the amount for which the property was sold on execution, together with interest thereon at the rate of six percent per annum from the date of the sale until the date of redemption. However, no deficiency judgment shall be entered against the owner of the property.

MISCELLANEOUS PROVISIONS ON FINANCING OF CITY IMPROVEMENTS; REBONDING; REINSTATMENT; TYPE OF BONDS ACCEPTED IN PAYMENT OF CITY LIENS; ASSESSMENT OF PUBLIC PROPERTY

223.705 Rebonding of unpaid assessments. Subject to the prior approval of the governing body of the incorporated city, the owner of any property assessed for local improvements under the provisions of ORS 223.205 and 223.210 to 223.295 or under the provisions of any city charter, and in cases where an assessment for local improvement has been bonded and entered in the bond lien docket as authorized by ORS 223.205 and 223.210 to 223.295 or the charter and the bonded assessment has not been fully paid, may file with the auditor, clerk or other officer charged with the keeping of city records an application for rebonding the original assessment in the amount due and unpaid thereon. The auditor, clerk or other officer charged with keeping the city records may accept these applications. If there is more than one assessment on the same piece of property, the owner may combine them in one application.

223.710 Rebonding application; form; prerequisites. (1) The applications for rebonding shall be in the same form and preserved as original bonding applications. The officer charged with keeping the city records shall keep the bonding applications in convenient form for examination. He shall enter in a docket kept for that purpose a description of each lot or parcel of land against which the rebonding assessment is made, or which bears or is chargeable for the cost of the local improvement, with the name of the then owner and the total amount of unpaid assessments rebonded.

(2) The total amount to be rebonded against any lot or parcel of land must be $25 or more. The owner shall tender and pay with the application all accrued interest due on the bonded assessment to the first of the month preceding the date of application.

(3) No application for rebonding shall be received unless the taxes for any quarter of the current year then due and payable, together with the entire amount of taxes of the year immediately preceding the year in which the application is filed, have been fully paid and evidence of such payment satisfactory to the officer receiving the application is produced at the time of making the application.

223.715 Payment of rebonded assessment. The amount of the assessment to be rebonded shall constitute a new principal and shall be paid in 20 equal semiannual instalments, with interest thereon at a rate not exceeding seven percent per annum. [Amended by 1969 c.531 §6]

223.720 Amount of city lien; priority. The amount of the unpaid rebonded assessments entered in the rebonding assessment docket, with interest on unpaid rebonded assessments at the rate of seven percent per annum, against each such lot or parcel of land, shall stand as a lien in favor of the city until the rebonded assessments and interest are paid. A rebonding assessment lien shall have the same priority as all other city liens. [Amended by 1969 c.531 §7]

223.725 Issuance and sale of bonds. Each incorporated city may, by ordinance of its governing body from time to time, issue and sell pursuant to rebonding applications, improvement bonds of the tenor of those designated in ORS 223.235 to 223.255, in an amount not exceeding the total amount of such applications.

223.730 Application of proceeds from sale of bonds. The proceeds from the sale of bonds issued under ORS 223.725 shall be applied as follows:

(1) The amount provided under ORS 223.705 to be rebonded shall be placed to the credit of the improvement bond sinking fund. Thereafter, as soon as practicable and in so far as possible, there shall be called and paid an equivalent amount of the bonds originally issued and so refunded by new applications to pay in instalments.

(2) The balance of the proceeds of the sale shall be placed to the credit of the improvement bond interest fund.

223.735 City debt limitation not applicable. The bonds and the amount thereof authorized pursuant to ORS 223.705 shall not be counted in calculating the limited indebtedness of any incorporated city, fixed either by its charter, ORS 223.295, by any law, or by the constitution of this state, but shall be in excess thereof and excluded from such debt limitations.

223.740 General provisions applicable. Except as otherwise provided in ORS 223.705 to 223.750, the provisions of ORS 223.205 and 223.210 to 223.295 or any charter shall apply to the rebonding application, to the form, to the manner of paying the amount entered in the bond lien docket, to the collection of delinquent instalments and to issuance, sale and redemption of improvement bonds issued pursuant to ORS 223.725.

223.745 Scope of power granted. The power granted by ORS 223.705 to 223.750 is vested in each incorporated city and is self-operating therein without further necessity of enacting charter provisions incorporating the terms of those sections.

223.750 Enactment of rulemaking ordinances; effect of irregularities. (1) Each incorporated city, through its council, may provide, by such ordinances, rules and regulations as may be needed, for accepting rebonding applications, issuing bonds and otherwise carrying out the terms of ORS 223.705 to 223.750; and may, by such ordinance and in conformity with ORS 223.715, determine the interest rate to be charged property owners who apply to rebond liens as provided by those sections.

(2) No error or omission in rebonding liens shall invalidate or impair the original bonded lien.

223.755 Reinstatement of delinquent bonded assessments authorized. (1) As used in this section, "bonded assessment" means any assessment for a local improvement levied by any incorporated city where application to pay such assessment in instalments has been filed with the city levying it.

(2) After approval by the governing body of any incorporated city, the owner of any property, against which there is outstanding any delinquent bonded assessment, at any time before the property affected by the assessment has been sold for the collection thereof as provided by law, may pay any delinquent instalment of the bonded assessment, together with the amount of interest due thereon as provided by the law governing the same, plus the cost of advertising the property for sale and a penalty of three percent on the amount of the delinquent instalment so paid.

(3) The power granted by subsection (2) of this section is vested in each incorporated city and is self-operating therein without the necessity of amending the charter thereof incorporating the terms of this section.

(4) The governing body of each incorporated city may, in its discretion, by ordinance, make the provisions of this section applicable to delinquent bonded assessments levied by it and outstanding against property in the city.

223.760 H.O.L.C. bonds accepted in payment of assessment liens. The governing body of any incorporated city may by ordinance provide that any or all special assessments levied against any tract or part thereof within the city and due the city, may be paid by bonds issued by the Home Owners' Loan Corporation, created by Act of Congress as of June 13, 1933. The governing body shall in the ordinance prescribe the terms and conditions under which those bonds shall be accepted in payment of such assessments.

223.765 Municipal bonds accepted as payment for assessment liens. Any incorporated city may, by ordinance duly passed by its governing body, authorize the acceptance by such incorporated city of the general obligation bonds or interest coupons attached, or both, of the incorporated city, in payment of all or any part of special assessment liens, interest or penalties of or payable to the incorporated city.

223.770 Assessment of public property benefited by improvements. (1) Whenever all or any part of the cost of public improvements made by any incorporated city is to be assessed to the property benefited thereby, benefited property owned by the city, county, school districts, state and any political subdivision thereof shall be assessed the same as private property and the amount of the assessment shall be paid by the city, school districts, county or state, as the case may be, provided that the costs of the improvements are, in any given case, of the type that may be bonded under ORS 223.205 and 223.210 to 223.220.

(2) In the case of property owned by the state, the amount of the assessment shall be certified by the city treasurer and filed with the Executive Department as a claim for reference to the Legislative Assembly in the manner provided by ORS 293.316, unless funds for the payment of the assessment have been otherwise provided by law. [Amended by 1967 c.454 §93]

223.775 Assessment of property of cemetery authority benefited by certain improvements. (1) As used in subsections (2) to (5) of this section:

(a) "Cemetery authority" means a nonprofit cemetery or crematory corporation.

(b) "Sale" includes a contract of sale as well as a sale.

(2) Notwithstanding the provisions of ORS 61.755 to 61.775 or any other provision of law, whenever all or any part of the cost of a street, curb or sidewalk improvement made by a city is to be assessed to the property benefited thereby, benefited property owned and platted for cemetery or crematory purposes by a cemetery authority shall be assessed the same as private property. The amount of the assessment shall be paid by the cemetery authority as provided in this section.

(3) (a) Within 60 days after the date the ordinance levying the initial assessment is enacted by the city, the cemetery authority shall furnish the city with a list of platted burial lots within the benefited property unsold on the date such ordinance was enacted. Until such assessment is paid in full, whenever additional burial lots are platted within the benefited property, the cemetery authority shall furnish the city with a list of such additional lots at the time the plat thereof is recorded.

(b) Out of the first funds received for the sales price of any of such lots, the cemetery authority after setting aside perpetual care and maintenance funds as required by law or otherwise shall credit five percent of such sales price to a special account for the pay-

ment of the assessment until a sum equal to the assessment and any interest due thereon has been so credited.

(4) All funds accumulated in the special account for the payment of assessments shall be paid semiannually to the city levying such assessment, the first payment to be made six months after the date the initial assessment ordinance was enacted and succeeding payments each six months thereafter until such assessment and any interest due thereon, as provided in this subsection, is paid in full. Any funds in such account that are not paid to the city when due shall bear interest at the rate of seven percent per annum from the due date until paid to the city.

(5) Platted property of a cemetery authority subject to an assessment as provided in this section is exempt from execution for collection of any such assessment while such property is held by a cemetery authority for cemetery or crematory purposes. Any such assessment levied against a cemetery authority shall be payable only from the funds received for the sale of lots listed with the city as required by subsection (3) of this section. Except as provided in subsection (4) of this section, interest shall not be due on the unpaid balance of any such assessment. [1963 c.521 §§1, 2; 1969 c.531 §8]

223.785 Special assessment improvement bonds. In addition to the authority to issue general obligation improvement bonds under ORS 223.240, a city may issue special assessment improvement bonds and pledge as security therefor all or any part of the revenue from special assessments levied against property benefited by the improvement. Such bonds shall be payable, both as to principal and interest, from assessments only. Applications to pay assessments in instalments and the bonds shall be subject to the same provisions and limitations as set forth in ORS 223.205 and 223.210 to 223.295. Special assessment improvement bonds shall contain a clause that both the principal and interest are payable solely from assessments levied against the benefited property. [1969 c.505 §1]

SPECIAL CITY IMPROVEMENTS; PARKING FACILITIES; SIDEWALKS; AIDS TO WATER COMMERCE

223.805 Short title of ORS 223.805 to 223.845. ORS 223.805 to 223.845 shall be known as the Motor Vehicle Parking Facilities Act.

223.810 Establishment of motor vehicle parking facilities. Any incorporated city may establish one or more off-street motor vehicle parking facilities for the general use and benefit of the people of the city, or for one or more special classes of vehicles, as appears necessary, proper or beneficial in the public interest. For these purposes, the city may proceed as provided in ORS 223.815 to 223.845.

223.815 Acquisition of property for parking facilities. For the purposes of ORS 223.810, a city may acquire property at or below the surface of the earth, by purchase, condemnation, exchange or other lawful manner. However, a city may not so acquire privately owned property used for public parking unless the facility to be constructed by the city would substantially increase the number of vehicle off-street parking spaces available for public use. The city may use the area below the street surface or the area beneath the surface of a park or other public property. [Amended by 1959 c.653 §8; 1967 c.478 §1]

223.820 Planning, constructing and contracting for the operation of or leasing parking facilities. For the purposes of ORS 223.810, a city may:

(1) Plan, design and locate the parking facilities.

(2) Construct, alter, enlarge, repair and maintain buildings, structures, equipment, access and entrance facilities, exit facilities, fencing and other accessories necessary or desirable for the safety or convenience of motorists using the off-street parking facilities.

(3) Contract with any person, firm or corporation for construction or for operation of the parking facility upon such terms as are found to be in the public interest, after first advertising for bids therefor by publication not less than once a week for two consecutive weeks in a newspaper of general circulation in the city, making two publications in all.

(4) Lease for a period not exceeding 50 years, notwithstanding any conflicting provision of any law, city charter or ordinance, any property referred to in ORS 223.810 to any person, firm or corporation pursuant to an agreement, according to such terms as are found to be in the public interest, whereby such person, firm or corporation undertakes to construct, where necessary, or alter or repair, and maintain and operate on such property the buildings, structures, equipment, facilities

and accessories necessary or convenient for parking facilities, and title to such building or structure to be constructed or altered shall vest in the city either when constructed or altered or at the termination of said lease. Such agreement shall be made only after first advertising for bids therefor by publication not less than once a week for two consecutive weeks in a newspaper of general circulation in the city, making two publications in all. [Amended by 1953 c.668 §2]

223.825 Financing of parking facilities. For the purposes of ORS 223.810, a city may finance the parking facilities by any one or any combination of the following methods:

(1) General obligation bonds within the legal debt limitations, or revenue bonds payable primarily or solely out of revenue from parking facilities in such amounts, at such rate of interest, and upon such conditions as may be prescribed by the legislative authority of the city.

(2) Special or benefit assessments equal to the total cost of land and improvements, or a portion thereof, such assessment to be levied against property benefited in proportion to the benefit derived, the amount of such assessment to be determined in accordance with special assessment practices for local improvements as now or hereafter prescribed by the ordinances or charter provisions of the city.

(3) Parking fees, special charges or other revenue derived from the use of off-street parking facilities by motorists, lessees, concessionaires, commercial enterprises or others.

(4) General fund appropriations.

(5) State or federal grants or local aids.

(6) Parking meter revenues.

(7) General property taxes, or gift, bequest, devise, grant or otherwise.

(8) For any city under 300,000 according to the latest federal decennial census, a reasonable annual fee on the privilege of occupying real property within the city or a district of the city to carry on a business, occupation, profession or trade. In levying the fee, the governing body shall take into consideration the unmet off-street parking requirements of such business. The proceeds of the fee, less refunds and costs of collection, shall be used solely for the purposes of ORS 223.805 to 223.845. The fee is in addition to, and not in lieu of, any other tax, assessment or fee required by state or local law or ordinance. [Amended by 1959 c.653 §9; 1967 c.380 §1; 1969 c.380 §1]

223.830 Service concessions in parking facilities. For the purposes of ORS 223.810, a city may rent or lease to any individual, firm or corporation any portion of the premises established as an off-street parking facility for service concessions, commercial uses or otherwise, after first advertising for bids therefor by publication not less than once a week for two consecutive weeks in a newspaper of general circulation in the city, making two publications in all. [Amended by 1967 c.380 §2]

223.835 Fees and regulations of parking facilities. For the purposes of ORS 223.810, a city may:

(1) Charge such fees as the legislative authority of the city finds fair and reasonable for the privilege of using the off-street parking facilities. These fees need not be limited to the cost of operation and administration but may be for revenue.

(2) Regulate and restrict the use of the parking facilities or prohibit the use thereof for vehicles of more than a class or classes of vehicles and provide penalties for violation of such regulations or prohibitions.

223.840 Disposing of property acquired for parking facilities. For the purposes of ORS 223.810, a city may sell, encumber, lease, exchange or otherwise dispose of property and property rights acquired as may be found in the public interest.

223.845 Limitation on operation by city of parking facilities; disbursement of revenues. For the purposes of ORS 223.810, a city may operate a parking facility or lease the same under ORS 223.820, as the city may determine. In no event shall the city operate any service concessions. In case the city operates a parking facility, it may provide, and if revenue bonds are issued to finance the acquisition and construction of such facility it must provide, that the revenues derived from the operation of the facility shall be disbursed by the city for some or all of the following purposes:

(1) Payment of interest on and retirement of principal of bonds issued by the city for financing the acquisition or construction of such facility.

(2) Payment of the necessary costs and expenses of operating the facility.

(3) Creation and maintenance of a reserve account to make necessary replacements.

(4) Payment to the taxing bodies in lieu of taxes an amount equal to the ad valorem

taxes that would be derived from the facility if under private ownership.

(5) Reimbursement of owners of real property for special assessments paid by them and levied against real property to finance the parking facility.

(6) Payment to the city of a fair return on its investment in the facility for the purpose of making additional parking and traffic improvements.

In case the revenues produce more than sufficient moneys than required for the matters mentioned in subsections (1) to (6) of this section, then the governing body shall reduce the rates charged for the use of the facility. [Amended by 1959 c.653 §10]

223.849 [1957 c.430 §1; repealed by 1959 c.653 §12]

223.850 [Renumbered 223.880]

223.852 [1957 c.430 §2; repealed by 1959 c.653 §12]

223.854 [1957 c.430 §3 repealed by 1959 c.653 §12]

223.855 [Renumbered 223.882]

223.857 [1957 c.430 §4; repealed by 1959 c.653 §12]

223.859 [1957 c.430 §5; repealed by 1959 c.653 §12]

223.860 [Renumbered 223.884]

223.862 [1957 c.430 §6; repealed by 1959 c.653 §12]

223.864 [1957 c.430 §7; repealed by 1959 c.653 §12]

223.865 [Renumbered 223.886]

223.867 [1957 c 430 §8; repealed by 1959 c.653 §12]

223.869 [1957 c.430 §9; repealed by 1959 c.653 §12]

223.870 [Renumbered 223.888]

223.872 [1957 c 430 §10; repealed by 1959 c.653 §12]

223.874 [1957 c.430 §11; repealed by 1959 c.653 §12]

223.875 [Renumbered 223.900]

223.877 [1957 c.430 §12; repealed by 1959 c.653 §12]

223.879 [1957 c.430 §13; repealed by 1959 c.653 §12]

223.880 Public roads included in sidewalk improvement district; assessment on property benefited. Any incorporated city, in addition to powers granted by law or charter, may include in any sidewalk improvement district within the city all county roads or state highways or any part thereof which are located within the improvement district. It may cause to be built on the county roads or state highways or portions thereof within the improvement district, sidewalks for pedestrian travel, and may assess the cost thereof upon the property benefited thereby, in the manner provided by charter or law. [Formerly 223.850]

223.882 Acquisition of property by city to aid water commerce. In order to secure benefit from the United States Bonneville electrical and navigation project, all cities may purchase, acquire by condemnation, or lease, real property for the purpose of constructing thereon wharves, docks or other similiar structures, or other aid to water-borne commerce, or for providing for sites for the location and operation of industrial or manufacturing plants or works thereon which will use the electrical energy developed by the Bonneville project and which would constitute feeders for docks, wharves or other aids of water-borne commerce. [Formerly 223.855]

223.884 Authority to take property within and without city limits. In carrying out the powers granted by ORS 223.882, cities are granted the right of eminent domain and the right to take private property for the public uses authorized by ORS 223.882. This power shall be exercised as provided by ORS chapter 35. Real property located without the corporate limits of the city, adjacent or contiguous to any of the boundary lines of the corporate limits of the city or within 10 miles of the boundary line of the corporate limits of any such city, may be acquired under the terms of this section. The determination of the council, commission of public docks, or other administrative body of the city having jurisdiction of its wharf or dock property that the acquiring of any particular real property is necessary to carry out the purposes of ORS 223.882 shall be sufficient foundation for the exercise of the right of eminent domain, notwithstanding that there is other real property available that might be used for those purposes. [Formerly 223.860; 1971 c.741 §22]

223.886 Loans authorized to finance improvements; security for loans; consent of voters. In carrying out the powers conferred by ORS 223.882, the city may borrow money from any person, corporation or agency of the United States Government for the purchase of any real property described in ORS 223.882, or for paying the cost of improvements on any real property, which improvements may include the construction of docks, wharves or other structures and appurtenant appliances or fixtures or machinery necessarily required to operate a wharf or dock. In borrowing money for any of these purposes the cities may secure money so borrowed by executing and giving a mortgage or similar indenture on any such real property and its revenues. If repayment of money borrowed for

acquisition or improvement of any such real property is not to be secured solely by the real property and the income derived therefrom, then, before a debt for the purpose of this section or ORS 223.882 can be contracted or incurred, the consent of the legal voters of the city must first be obtained. [Formerly 223.865]

223.888 Authority of city to carry out law. In the execution of powers conferred by ORS 223.882 to 223.886, a city may act through its council, commission of public docks, or other administrative body having jurisdiction of its wharves, docks or waterfront property. The city or its said administrative body may enter into and execute contracts or leases and do all acts and things requisite for carrying out the purposes of ORS 223.882 to 223.900. [Formerly 223 870]

223.900 Leasing property to individuals. In leasing or renting any part or portion of the real property acquired pursuant to the authority of ORS 223.882 to any individual or corporation, a city shall act in conformity with the requirements of ORS 271.300 to 271.370 when those sections are applicable. [Formerly 223.875]

MISCELLANEOUS

223.905 Duration of Public Works Acts. (1) Except in pursuance of any contract or agreement entered into by and between any municipality and any federal agency prior to January 1, 1943, no municipality shall borrow any money or deliver any bonds pursuant to the provisions of chapter 455, Oregon Laws 1937, after January 1, 1943.

(2) Except in pursuance of any contract or agreement entered into by and between any municipality and any federal agency prior to December 31, 1941, no municipality shall exercise any of the powers conferred by chapter 348, Oregon Laws 1935, after December 31, 1941.

223.910 Validation of bonds issued under Public Works Act of 1937. All bonds or other obligations issued prior to March 27, 1939, pursuant to an election held under chapter 455, Oregon Laws 1937, and all proceedings taken prior to March 27, 1939, with respect to bonds or other obligations authorized prior to March 27, 1939 by an election held under chapter 455, Oregon Laws 1937, and which were issued within one year after March 27, 1939, by municipalities, for the purpose of obtaining loans from the Federal Emergency Administration of Public Works, pursuant to chapter 455, Oregon Laws 1937, are validated, ratified, approved and confirmed. All bonds or other obligations so issued and approved and all proceedings taken prior to March 27, 1939, with respect to bonds or other obligations authorized prior to March 27, 1939, by an election held under chapter 455, Oregon Laws 1937, and to be issued within one year after March 27, 1939, are confirmed and approved. The bonds or other obligations issued prior to March 27, 1939, are declared to be legal and binding obligations upon such municipalities for any and all purposes.

223.915 Operation of municipal debt limitations on bonds issued under Public Works Act of 1937. Bonds issued under chapter 455, Oregon Laws 1937, are not subject to any limitations on municipal indebtedness as provided by law, including but not limited to ORS 287.004. However, all bonds issued under chapter 455, Oregon Laws 1937, shall be included in determining the power of a municipality to issue bonds under any other law.

223.920 Manner of paying bonds. The bonds issued under chapter 455, Oregon Laws 1937, are payable in the manner provided by ORS 287.006; except that ORS 287.006 shall not apply to bonds payable solely from revenues.

223.925 Power of cities to secure payment of bonds. In order to secure payment of any bonds issued pursuant to chapter 455, Oregon Laws 1937, and interest thereon, or in connection with such bonds, any municipality may:

(1) Pledge the full faith and credit and taxing power of the municipality to the punctual payment of the principal and interest on such bonds.

(2) Pledge all or any part of the revenues received or receivable by the municipality from any public works project then existing or thereafter to be constructed for the punctual payment of the principal of the bonds issued for such public works project, and the interest thereon, and to covenant against thereafter pledging any such revenues to any other bonds or any other obligations of the municipality for any other purpose.

(3) Provide for the terms, form, registration, exchange, execution and authentication of such bonds.

(4) Covenant as to the revenues to be charged in connection with the public works project for which such bonds are to be issued and as to the use and disposition to be made thereof.

(5) Covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.

(6) Redeem such bonds, and covenant for their redemption and provide the terms and conditions thereof.

223.930 Streets along city boundaries or partly within and without city. (1) Any city may construct, improve, maintain and repair any street the roadway of which, as defined in ORS 483.020, is along or along and partly without, or partly within and partly without the boundaries of the city and may acquire, within and without the boundaries of such city, such rights of way as may be required for such street by donation or purchase or by condemnation in the same manner as provided in ORS 223.005 to 223.175, except as provided in subsection (2) of this section.

(2) In any condemnation proceeding pursuant to subsection (1) of this section, a city shall not have any right of occupancy or possession until the condemnation judgment is paid. [1955 c.551 §1]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G. Clifford

Legislative Counsel