

Title 17
DEVELOPMENT REGULATIONS

Chapters:

- 17.05 Official Map**
- 17.10 Comprehensive Plan and Development Regulations**
- 17.15 Public Improvement Procedures**

**Chapter 17.05
OFFICIAL MAP**

Sections:

17.05.010 Adoption.

17.05.020 Names of streets, avenues, roads, and highways – Numbering system.

17.05.010 Adoption.

The map or plat of Burns, Oregon, drawn by M. V. Dodge, February, 1931, and identified by the following lettering thereon, "Official Map of Burns, Oregon, Showing Street Names and Numbering System," and being further identified by the following words, letters, and figures inscribed thereon, "Adopted by Ordinance No. 248, on the 4th day of May, 1931," and bearing the signatures of the mayor, G. N. Jameson, and the recorder, Maurice Schwartz, as the map or plat may now or hereafter be amended, be and the same is hereby adopted and declared to be the official map or plat of Burns, Oregon. [Ord. 482, 1965; Ord. 248 § 1, 1931]

17.05.020 Names of streets, avenues, roads, and highways – Numbering system.

From and after the effective date of the ordinance codified in this section, the names of all streets, avenues, roads, and highways within the corporate limits of said city of Burns shall be as shown and designated on said map or plat, and the numbering system therefor shall be as shown and designated thereon, and not otherwise. [Ord. 248 § 2, 1931]

Chapter 17.10
COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS

Sections:

- 17.10.010 Adoption of comprehensive plan and development regulations.**
- 17.10.020 Provisions as law.**
- 17.10.030 General savings provision.**

17.10.010 Adoption of comprehensive plan and development regulations.

The provisions of the document marked and designated as “The City of Burns Comprehensive Plan and Development Regulations,” attached hereto, are hereby enacted as law of the city of Burns, Oregon. [Ord. 614 § 1, 1983]

17.10.020 Provisions as law.

The provisions of the comprehensive plan and development regulations adopted in BMC 17.10.010 are laws of the city of Burns and not merely prima facie evidence of the law. [Ord. 614 § 2, 1983]

17.10.030 General savings provision.

The comprehensive plan and development regulations shall not affect or impair any offense committed or liability, penalty, forfeiture, or punishment incurred before the effective date of the ordinance codified in this chapter. [Ord. 614 § 3, 1983]

Chapter 17.15
PUBLIC IMPROVEMENT PROCEDURES

Sections:

- 17.15.010 Definitions.**
- 17.15.020 Plans and specifications.**
- 17.15.030 Assessing.**
- 17.15.040 Resolution.**
- 17.15.050 Public hearing and remonstrances.**
- 17.15.060 Call for bids.**
- 17.15.070 Assessment ordinance procedures.**
- 17.15.080 Docketing of liens.**
- 17.15.090 Lien recording – Payments over time or by cash.**
- 17.15.100 Errors in assessment calculations.**
- 17.15.110 Interest on assessments.**
- 17.15.120 Authority of city to make reassessment.**
- 17.15.130 Consent or waiving requirement of notices.**
- 17.15.140 Assessment of public property benefited by improvements.**
- 17.15.150 Public roads included in sidewalk improvement district – Assessment on property benefited.**
- 17.15.160 Abandonment of proceedings.**
- 17.15.170 Curative provision.**
- 17.15.180 Apportionment of local improvement assessments.**

17.15.010 Definitions.

As used in this chapter unless the context requires otherwise:

(1) “Actual cost” means all direct or indirect costs incurred by the city in order to undertake and complete a capital construction project. “Actual cost” includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, required fees, engineering, surveying, financing, reasonable program delinquencies, return on investment, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

(2) “Assessment for local improvement” means any fee, charge or assessment that does not exceed the actual cost incurred by the city for a local improvement.

(3) “Capital construction” means the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, which is expected to have a useful life of more than one year, and includes, but is not limited to:

(a) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(b) Acquisition, installation of machinery or equipment, furnishings or materials which will become an integral part of a structure.

(c) Activities related to the capital construction, such as planning, design, acquisition of interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or other services connected with the construction.

(d) Acquisition of existing structures, or legal interests in structures, in conjunction with capital construction.

(4) “Capital improvements” means land, structures, facilities, as that term is defined in Oregon Laws (ORS 288.805), machinery, equipment or furnishings having a useful life longer than one year.

Burns Municipal Code

(5) Estimated Assessment.

(a) "Estimated assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the estimated cost of the local improvement and the proposed formula for apportioning the actual cost to the property.

(b) "Estimated assessment" shall be determined by:

(i) Excluding from the estimated cost the estimated financing costs associated with any bonds issued to accommodate the payment of the assessment in installments; and

(ii) Including in the estimated cost the estimated financing costs associated with interim financing of the local improvement.

(6) "Estimated cost" means the city's estimate, at the time of giving of notice of the estimated assessment and of the right to object or remonstrate, of the actual cost of the local improvement.

(7) "Final assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual cost of the local improvement and the formula for apportioning the actual cost to the property.

(8) "Financing" means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement.

(a) The costs of financing may include the salaries, wages and benefits payable to employees in connection with the financing of a local improvement or any part thereof. However, as a condition to inclusion of any salaries, wages, or benefits payable to employees of the city as financing costs of a local improvement or any part thereof, the city shall establish a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

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

(9) "Local improvement" means a capital construction project, or part thereof, undertaken by the city pursuant to the procedure to be followed in making local assessments for the benefits from a local improvement upon the lots which have been benefited by all or part of the improvement.

(a) Which provides a special benefit only to specific properties or rectifies a problem caused by specific properties; and

(b) The costs of which are assessed against those properties in a single assessment upon the completion of the project; and

(c) For which the property owner may elect to make payment of the assessment plus appropriate interest over a period of at least 10 years by the property owner;

(d) The total of all assessments for a local improvement shall not exceed the actual cost incurred by the city in completing the project;

(e) The status of a capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the specific benefit.

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

(11) "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 Harney County assessor on the day the resolution described in BMC 17.15.040 is adopted.

(12) "Property benefited" means all property specially benefited by the improvement, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the actual cost of the improvement between the properties determined to be specially benefited.

(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, or instrument number

of any public record of the county where the description may be found, or by designation of a tax lot number, or in any other manner as to cause the description to be capable of being made certain.

(b) If the owner of any land is unknown, the land may be assessed to “unknown owner,” or “unknown owners.” If the property is correctly described, no final 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 final assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description, a court of equity would hold it to be good and sufficient.

(13) “Remonstrance” means a written objection to the formation of a local improvement district.

(14) “Single assessment” means the complete assessment process, including preassessment, assessment or reassessment, for any authorized local improvement which provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots which have been benefited by all or part of the improvement.

(15) “Special benefit only to specific properties” shall have the same meaning as “special and peculiar benefit” as that term is used in Oregon Law (see ORS 223.389).

(16) “Structure” means any temporary or permanent building or improvement to real property of any kind, which is constructed on or attached to real property, whether above, on, or beneath the surface. [Ord. 728 § 1, 1998]

17.15.020 Plans and specifications.

Whenever the common council shall determine to proceed to make a local improvement to be paid for in full or in part by the property benefits, the common council shall, by motion, direct the city manager and/or city engineer to have a report prepared containing the following information and to file the report in the clerk’s or city manager’s office when completed:

(1) A description of the local improvement.

(2) Preliminary plans and outline specifications for the local improvement.

(3) A description of the boundaries of the local improvement district.

(4) A just and reasonable method for apportioning the actual cost of the local improvement to the properties benefited.

(5) A list of the properties benefited by the local improvement, including the name and address of each owner; the assessed valuation of each property, adjusted in accordance with Oregon law; and a statement of the amount of outstanding assessments against any property proposed to be assessed by the improvement.

(6) The estimated cost of the local improvement.

(7) The estimated share of the estimated cost of the local improvement to be assessed to each benefited property.

(8) The estimated share of the estimated cost of the local improvement to be paid by the city, if any. [Ord. 728 § 2, 1998].

17.15.030 Assessing.

The common council shall do the following in assessing the cost of a local improvement:

(1) Use a fair and reasonable method for determining the extent of the district boundaries.

(2) Use a fair and reasonable method for apportioning the actual cost or estimated cost of the local improvement among the benefited properties.

(3) Consider payment by the city of all or part of the actual cost or estimated cost of the improvement when, in the opinion of the common council, on account of topographical, physical or other characteristics of the local improvement or expected unusual or excessive use by the general public, payment by the city would be appropriate or when the common council otherwise believes it would be just and reasonable for the city to pay all or part of the cost.

Burns Municipal Code

(4) Consider other available means of financing the improvement. In the event other means of finance are used, the common council may, subject to the constraints of the Oregon Constitution and Oregon Laws, in its discretion, levy assessments to cover any part of the actual cost of the local improvement not covered by the alternative means of finance. The use of any available alternative means of finance lies solely within the discretion of the common council.

(5) No credits shall be given for corner lots.

(6) Unimproved property will be subject to assessment to a maximum depth of 200 feet. [Ord. 728 § 3, 1998]

17.15.040 Resolution.

(1) After the city manager's and/or city engineer's report have been filed with the clerk, the council has examined such report and found it to be satisfactory and found the estimated cost and apportionment thereof to be fair and reasonable, and after having found the boundaries of the local improvement district to be properly determined, the common council may, by resolution, propose to make the local improvement by creating a local improvement district.

(2) The resolution shall set forth:

(a) The boundaries of the local improvement district.

(b) The proposed method for apportioning the estimated cost of the local improvement among the benefited properties.

(c) The portion of the estimated cost, if any, which the city will pay.

(d) That the portion of the estimated cost which is assessed to the properties benefited shall be a charge and lien upon those properties.

(e) The time and place for a public hearing before the common council to hear objections and receive remonstrances.

(f) Directions to the clerk to provide a notice of the public hearing to the owners of the properties benefited which contains the following matters:

(i) A brief and general description of the proposed local improvement and a statement that a more detailed description is set forth in a report on file in the office of the clerk.

(ii) That the common council proposes to create a local improvement district and will be holding a public hearing to hear objections and receive remonstrances to the local improvement.

(iii) The date, time and place of the public hearing.

(iv) A description of the properties to be benefited by the local improvement, the owners of such property, the estimated cost of the local improvement and the estimated assessment for each property benefited.

(v) A statement that if at or before the public hearing written remonstrances against the local improvement are filed with the clerk by the owners of at least 51 percent of the property to be assessed, action on the local improvement will be suspended for at least six months. [Ord. 728 § 4, 1998]

17.15.050 Public hearing and remonstrances.

(1) Public Hearing. A public hearing before the common council shall be held at the scheduled date and time and the common council shall hear and consider objections and receive remonstrances to the local improvement.

(2) Remonstrances by 51 Percent. If at or before the public hearing written remonstrances against the improvement are filed with the clerk by the owners of 51 percent or more of the property to be assessed, action on the local improvement shall be suspended for at least six months from the date of the public hearing. At the conclusion of the public hearing, or within 60 days thereafter, the common council may, by motion, abandon the improvement or schedule a second public hearing for a date after the expiration of the six-month suspension period. At the second public hearing the common council shall receive a report from the city manager as to whether the original city manager's report is still accurate in all respects and if not accurate, the council shall, by motion, accept such modifications to the report as it deems necessary to make the report accurate. The common council shall also hear any objections to the proposed

improvement but the filing of objections or remonstrances at the public hearing which follows the six-month suspension period shall not suspend action on the proposed local improvement nor have any other effect on the council's authority to proceed with the local improvement. At the conclusion of the second public hearing, or within 60 days thereafter, the council may, by motion, abandon the proposed local improvement or order the improvement to be carried out in accordance with the report. [Ord. 728 § 5, 1998]

17.15.060 Call for bids.

(1) The design, plans and specifications for the construction shall conform to all applicable city rules, regulations, ordinances and standards, and shall be approved by the city.

(2) The construction work may be done in whole or in part by the city, by a contractor, or by any other governmental agency, or by any combination thereof.

(3) If all or part of the local improvement is to be constructed by a contractor, the council shall order the city manager and/or city engineer to advertise for bids for construction.

(4) No contract shall be advertised for nor let until the common council has determined that the improvement shall be made.

(5) A contract for the local improvement, or any part of it, shall be awarded to the lowest responsible bidder.

(6) The common council may reject any or all bids.

(7) If no bids are received, or if the bids received are rejected, the common council may call for other bids, change the manner in which the local improvement shall be constructed, or abandon the local improvement.

(8) If the lowest responsible bid exceeds the estimated cost of the local improvement and, if accepted, would cause any estimated assessment to increase by more than 20 percent, and if the common council wants to proceed with the local improvement, before proceeding the common council shall revise the estimated assessments, hold another public hearing, after notice to the owner's of the properties benefited of the new estimated assessments, and shall proceed as if that was the original public hearing except that new bids need not be solicited.

(9) The common council shall require bonding of all contractors for the faithful performance of the contracts.

(10) Oregon Law (Chapter 279 ORS) as it exists and as hereafter amended is incorporated herein by this reference and shall be followed with respect to public bidding. [Ord. 728 § 6, 1998]

17.15.070 Assessment ordinance procedures.

(1) Initial Assessments. If the common council determines that the local improvement shall be constructed, the common council shall provide for the assessment or estimated assessment of the benefited properties, and for the apportionment of the assessment or estimated assessment to the properties benefited by ordinance by one of the following methods:

- (a) Actual cost of the local improvement; or
- (b) The estimated cost of the local improvement.

(2) Notice. The clerk shall prepare the assessment or estimated assessment for the properties benefited and file it with the appropriate city office. Notice of such assessment or estimated assessment shall state the amount of assessment or estimated assessment proposed for that property and shall set forth the date, time and place for a public hearing before the council for hearing objections to the proposed assessments.

(3) Public Hearing on Proposed Assessments. The common council shall hold a public hearing to consider objections to the proposed assessments and may correct, modify or revise the proposed assessments. After determining that the assessments meet the requirements of this chapter, the common council shall, by ordinance, spread the assessments.

(4) Actual Cost. In determining the assessment or estimated assessments for the local improvement the common council shall use the actual cost.

(5) Lien. The assessment ordinance shall provide that the assessments or estimated assessments

against the benefited properties shall be a lien against the assessed properties and that the city may enforce collection of such assessments as provided by Oregon law.

(6) Estimated Cost. If the initial assessment has been made on the basis of estimated cost, and upon the completion of the work the actual cost is found to be greater or less than the estimated cost, the common council shall make an assessment for the actual cost. Proposed revised assessments shall be made; notice to the owners shall be sent; a public hearing for receiving and considering objections shall be held; determination of the assessment against each property benefited shall be made as in the case of the initial assessment; and the revised assessments shall be spread by ordinance. In the event that an estimated assessment which was greater than a revised assessment has been paid, the payor or the payor's assigns or legal representative shall be refunded the difference. [Ord. 728 § 7, 1998]

17.15.080 Docketing of liens.

(1) After passage of the assessment ordinance by the council, the clerk shall enter in the docket of city liens, if any and/or in the county mortgage lien records, a statement of the amount assessed upon each property benefited, together with a description of the improvement, the name of the owner and the date of the assessment ordinance. Upon entry in the lien docket, the amount entered shall become a lien and charge upon the respective lots, parcel of land or portions thereof, which have been assessed. All assessment liens of the city of Burns shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit.

(2) After the expiration of 30 days from the date the assessment ordinance was adopted the city may proceed to foreclose or enforce collection of the assessment liens in any manner provided for herein or by the law of the state of Oregon. The city may, at its option, enter a bid for any property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state of Oregon to redeem such property. [Ord. 728 § 8, 1998]

17.15.090 Lien recording – Payments over time or by cash.

(1) When the final assessments for a local improvement have been adopted by ordinance the city shall cause notice of the final assessments to be published once in a newspaper of general circulation within the city and to be mailed or personally delivered to the owners of the properties to be assessed within 10 days after the date of the adoption of the ordinance. The notice shall set forth the local improvement for which the assessment is to be made, a description of each lot to be assessed, the final assessment for each lot, and the date the assessment ordinance was adopted. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the city for payment of the final assessment in installments as provided in this chapter and if the owner fails to submit such an application to the city within 30 days after the date of the adoption of the assessment ordinance and also fails to pay the assessment within that period of time then interest will commence to run on the assessment and the lien on the property assessed will be subject to foreclosure.

(2) The owner of any property to be assessed, at any time within 30 days after the date of the adoption of the assessment ordinance, may file with the clerk a written application to pay the whole of the assessment in installments. If part of the assessment has been paid the owner may apply to pay the unpaid balance in installments.

(3) At the option of the city, an installment application may be filed more than 30 days after the date of the adoption of the assessment ordinance.

(4) The installment application shall state that the applicant waives all irregularities or defects, jurisdictional or otherwise, in the local improvement district proceedings, including the apportionment of the cost of the improvement.

(5) The application shall provide that the applicant agrees to pay the assessment in installments over a period of not less than 10 years nor more than 30 years and according to such terms as the city may provide.

(6) The applicant shall also provide that the applicant acknowledges and agrees to pay interest at the rate provided by the city, together with an amount to be either included in the assessment or in the interest

on installment payments, determined by the city to be sufficient to pay a proportionate part of the cost of financing and administering the assessment program.

(7) The application shall also contain a description, by lots or blocks, or other convenient description, of the property of the applicant assessed for the improvement.

(8) The amount and due date of each installment shall be determined by the city and be set forth in the installment application.

(9) The first installment, plus accrued interest thereon, shall be due and payable on the date determined by the city and subsequent installments plus accrued interest shall be due and payable on subsequent periodic dates thereafter as shall have been determined by the city.

(10) If an installment or the interest thereon, or any part thereof, is not paid within one year of its due date, then the city may pass a resolution:

(a) Giving the name of the owner then in default;

(b) Stating the sums due, both principal and interest, and any unpaid late payment penalties or charges;

(c) Containing a description to the property subject to the assessment; and

(d) Declaring the whole sum, both principal and interest, immediately due and payable.

(11) The city may then immediately proceed to collect all unpaid amounts owing and enforce collection thereof by any method authorized by law for the enforcement or foreclosure of liens or mortgages, including the procedures in Chapters 87 and 88 ORS as they now exist and are hereafter revised and amended. [Ord. 728 § 9, 1998]

17.15.100 Errors in assessment calculations.

Claimed errors in the calculation of final assessments shall be called to the attention of the city manager prior to any payments on the account. The city manager shall check the calculation and report the findings to the common council. If an error has been made, the common council shall amend the final assessment ordinance or pass a correcting ordinance, to correct the error. Upon the enactment of such correcting ordinance or an amendment by the common council, the clerk shall make the necessary correction in the lien docket, and/or in the county mortgage lien records, and shall send, by registered or certified mail, a corrected notice of the assessment to the owner. [Ord. 728 § 10, 1998]

17.15.110 Interest on assessments.

Interest shall be charged on all assessments not paid within 30 days after the date of the adoption of the assessment ordinance. Interest shall accrue at a rate not to exceed two percentage points more than the net effective rate of interest paid by the city on improvement bonds sold by the city in connection with financing the local improvement out of which the assessment arose, or if no such improvement bonds are sold, then interest at such rate as the common council may set forth in the assessment ordinance, or if no such rate is set forth, then at the rate of nine percent per annum on the balance of an assessment which is unpaid 30 days after the date the assessment ordinance was adopted, from that date. [Ord. 728 § 11, 1998]

17.15.120 Authority of city to make reassessment.

Whenever all or part of any assessment for a local improvement 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 common council is in doubt as to the validity of all or part of any such assessment by reason of such defects in procedure, the common council may by ordinance make a new assessment or reassessment. [Ord. 728 § 12, 1998]

17.15.130 Consent or waiving requirement of notices.

The provisions of BMC 17.15.040(2)(f), insofar as it requires notice to the owners of the properties benefited, shall not apply if the owners of all assessable property within the proposed local improvement district have consented in writing to the local improvement and have waived the requirement for notice of the initial public hearing. [Ord. 728 § 13, 1998]

17.15.140 Assessment of public property benefited by improvements.

(1) Whenever all or any part of the cost of the local improvement 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 in the same manner as private property and the amount of the assessment shall be paid by the city, county, school district or state, as the case may be.

(2) In the case of property owned by the state, the amount of the assessment shall be certified by the city manager or clerk and filed with the executive department as a claim for reference to the legislative assembly in the manner provided by Oregon law unless funds for the payment of the assessment have been otherwise provided by law. [Ord. 728 § 14, 1998]

17.15.150 Public roads included in sidewalk improvement district – Assessment on property benefited.

The city, in addition to powers granted by law or charter, may include in any local improvement district for sidewalks all county roads or state highways or any part thereof which are located within the local improvement district. The city may cause to be built on the county roads or state highways or portions thereof within the local improvement district, sidewalks for pedestrian travel, and may assess the cost thereof upon the property benefited thereby, in the manner provided by this chapter and/or Oregon law. [Ord. 728 § 15, 1998]

17.15.160 Abandonment of proceedings.

The common council shall have full power and authority to abandon and rescind proceedings for a local improvement at any time. If liens have been assessed upon any property, they shall be canceled, and any payments made thereon shall be refunded to the payor, his assigns or legal representatives. [Ord. 728 § 16, 1998]

17.15.170 Curative provision.

No local improvement assessment shall be invalid by reason of a failure to give, in any report, on the proposed assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot or other parcel of land, or part thereof, or the name of any person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings hereinabove specified, unless it appears that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the common council shall have power and authority to remedy and correct all such matters by suitable actions and proceedings. [Ord. 728 § 17, 1998]

17.15.180 Apportionment of local improvement assessments.

The city shall apportion a local improvement assessment imposed upon a single tract or parcel of real property among all the parcels formed by a subsequent partition, subdivision or other division of that tract or parcel provided the following conditions are met:

- (1) The subsequent partition, subdivision or division was lawfully made.
- (2) The original assessment remains wholly or partially unpaid, and full payment or an installment payment is not due.
- (3) The city has been requested to make an apportionment by an owner, mortgagee, or lien holder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the local improvement assessment was originally levied.
 - (a) The city shall not apportion the local improvement assessment unless the applicant files with the city a true copy of the deed, mortgage or instrument evidencing the applicant's ownership or other interest in the parcel; or
 - (b) The applicant supplies the city with the recording data necessary for the city to find such deed, mortgage or other instrument evidencing the applicant's ownership or other interest in the parcel in the Harney County Deed Records.

(4) The apportionment of an assessment shall be done by ordinance which shall contain the following

Burns Municipal Code

information:

- (a) The description of each parcel of real property affected by the apportionment.
 - (b) The amount of the assessment levied against each parcel.
 - (c) The amount of the assessment levied against each parcel.
 - (d) The owner of each parcel.
 - (e) Such additional information as the city may require to keep a permanent and complete record of the assessments and the payments thereon.
- (5) A copy of the ordinance allowing the apportionment of a local improvement assessment shall be filed with the clerk who shall make any necessary changes or entries in the city's lien docket.
- (6) When the local improvement assessment is being paid in installments, and the assessment is apportioned among smaller parcels of real property under this section, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with the percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon the apportionment.
- (7) The city may require each applicant to pay a deposit as established by the city before beginning the local improvement assessment apportionment process and the city shall require all applicants to reimburse the city for the actual costs incurred by the city in apportioning.
- (8) The city's public works director and/or city engineer shall establish regulation for the equitable apportionment of local improvement assessments.
- (9) The provisions of this section shall also apply to estimated assessments on any parcel divided into smaller parcels prior to the levy of the final assessment. [Ord. 728 § 18, 1998]