

LOCAL IMPROVEMENT CODE

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General

2.005 Definitions.

(1) Definition of Terms. The following words and phrases when used in this Local Improvement Code shall, for the purpose of this Code, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

(a) “City” shall mean the City of Gold Beach, its City Council or such City officer as the Council shall designate in general or in a particular case.

(b) “Obstruction” shall mean any excavation, tunnel, material, barrier or thing that constricts, obstructs or prohibits the normal use and flow of traffic, vehicular or pedestrian.

(c) “Person” shall mean every natural person, firm, co-partnership, association or corporation.

(d) “Sidewalk” shall mean the part of the street right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property lines.

(e) “Street” shall mean a way or place open as a matter of right to the use of

the public for vehicular traffic and lying between the boundary lines of said place or way as follows:

(i) Arterial Street. A street of considerable continuity which is primarily a traffic artery for intercommunication between major geographic areas or which carries a heavy volume of traffic.

(ii) Collector Street. A street supplementary to the arterial road system and used for both through traffic and access to abutting properties.

(iii) Residential Street. A street providing direct access to abutting residential property lot size and or dwelling density potential indicate urban residential traffic volume.

(f) "Tunnel" shall mean an excavation requiring the removal of dirt or like matter and including the driving or forcing of pipe through the ground.

Public Improvements

2.105 Procedure for Making Public Improvements.

(1) Initiation of Proceedings; Engineer's Report.

(a) Whenever the Council determines, upon its own motion or upon the petition of the owners of two-thirds (2/3) of the property who are also two-thirds (2/3) of the property owners which will benefit specially from the improvement, to make a local improvement, the Council shall direct the City engineer or engineer employed by the City to make a survey and plat of such project and to submit a written report for the proposed improvement. The petition shall clearly state that each petitioner agrees to grant any easements reasonably necessary to construction of the improvement without receiving monetary compensation. If an individual wishes to pay for the engineering report PRIOR to obtaining petition signatures, they may request reimbursement, from the City, for the reasonable costs of preparing or obtaining the engineering report if the petition is accepted by the Council.

(b) Unless the Council directs otherwise, the report shall contain:

(i) A full description of such project and a description of each lot, tract, or parcel of land, or portion thereof, specially benefited thereby, with the name of the record owner or owners and may contain the name or names of other persons found to have any interest in or lien upon said property.

(ii) A description of the boundaries of the district benefited and to be assessed for such improvement as shown by the Council's resolution.

(iii) An estimate of the probable cost of such project, which estimate

shall include legal, administrative, and engineering costs attributable to such project.

(iv) A recommendation of a fair apportionment of the whole or any portion of the cost of the project to the property specifically benefited.

(2) Improvement Resolution; Public Hearing.

(a) Promptly after the filing of the engineer's report, the City Administrator shall prepare a notice stating that such report is on file in his office subject to examination, fixing the dates when the same was filed, the estimated probable cost of such proposed improvement, a brief statement of the area proposed to be assessed therefore, and notifying all persons interested to present their objections to said report, if any they have, before the City Council on a date specified in such notice, not less than ten (10) days after the date of the first publication or posting, as hereinafter provided, of said notice.

(b) The Council shall specify in a Resolution providing for the said improvement whether the notice provided for in this section shall be published or posted as herein provided.

(i) If the Council shall declare notice be published, the City Administrator shall prepare the notice of publication containing the information above set forth, together with the names of the record owners of the property and a description thereof, either by street number or other legal description and cause the said notice to be published in a newspaper of general circulation, either daily or weekly, within the city; that publication shall take place at least twice prior to the hearing provided for therein.

(ii) If the Council shall determine to give notice by posting, the City Administrator shall prepare a notice containing the same information as provided for by published notice, one (1) copy thereof shall be posted in the City Hall, and at least two (2) copies thereof shall be posted within the confines of the area where the proposed improvement is to be carried out. In addition, the City Administrator shall cause to be mailed to the address of the record owners a copy of said notice. Said notices shall provide for the hearing before the City Council, which may not be less than ten (10) days from the date of the mailing or posting, whichever is later, of the said notice.

(c) If the Council, after hearing the objections, if any there be, finds such report to be reasonable and just, it may adopt the same or amend, and, as amended, adopt the same by ordinance, embodying such report. It may require a supplementary or further report from the City engineer or engineer employed by the City.

(3) Remonstrance.

Not later than seven (7) days after the public hearing provided for in section (2), a remonstrance (filed with the City Administrator's office) of the owners of two-thirds (2/3) of the

property who are also two-thirds (2/3) of the property owners who will be assessed for the improvement shall defeat a resolution or petition to effectuate an improvement. In such an event, no further action to effect the improvement shall be taken for six (6) months.

(4) Procedure for LID Participants to Dissolve LID.

If two-thirds (2/3) of the original petitioners who requested formation of the local improvement district wish to cancel the improvement, they may do so by presenting the Council with a petition requesting dissolution. This request will be allowed on condition that all City expenditures related to the improvement must be paid by the petitioners requesting dissolution of the improvement district. The petition for dissolution must be presented to the Council PRIOR to acceptance of a bid for construction of the improvement. Upon receipt of the dissolution petition, the Council, by resolution, shall order the improvement be suspended for a period of not less than six (6) months or abandoned. The City will bill the petitioners for their prorated portion of the cost, with reimbursement to the City required within thirty (30) days of the billing date. The individual assessments of the reimbursement amount shall be set forth in the resolution suspending or abandoning the improvement. If any petitioner does not pay their portion within thirty (30) days, the City may impose a lien on the petitioner's property for the amount due the City in the manner provided in Section 2.110 (6)

(5) Manner of Doing Work; Contracts; Bids; Bonds.

The Council shall provide by resolution the time and manner of doing the work of such project, and may provide for the City to do the work itself, award the work on contract, or any combination thereof. In the event that the work is done under contract, the Council shall comply with the requirements of public contract law and ordinance.

2.110 Assessments.

(1) Assessment Procedure.

(a) When the Council, after the hearing provided for in section 2.105(2), shall have ascertained what it deems to be a fair, just, and proper assessment of benefits to the property it determines to be specially benefited, it may pass an ordinance specifying in detail such assessment, which ordinance may be passed at any time after the hearing hereinbefore specified. In order to avoid deficit assessments or rebates, or for any other reason deemed sufficient by the Council, such ordinance specifying and levying assessments need not be passed until the work is completed and total costs determined.

(b) The City Administrator shall cause notice of the proposed assessments to be mailed or personally delivered to the owner of each lot proposed to be assessed. The notice shall state the amounts of assessment proposed on that property and shall fix a date, not less than twenty (20) days from the date of delivery of the notice, by which time written objections to the proposed assessment may be filed with the City Administrator's office. Any such objection shall state the grounds thereof.

(c) The Council shall consider the objections and may adopt, correct, modify, or revise the proposed assessments and shall determine the amount of assessment to be

charged against each lot in the district, according to the special and peculiar benefits accruing thereto from the improvement, and by ordinance shall spread the assessments.

(2) **Method of Assessment.** The Council, in adopting a method of assessment of the costs of the local improvement, may:

(a) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

(b) Authorize payment by the City of Gold Beach of all or any part of the cost of any such improvement, provided the method selected creates a reasonable relation between the benefits derived by the property specially assessed, and the benefits derived by the City as a whole.

(c) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

(3) **Notice of Proposed Assessment.** The notice required to be sent to the owner of a lot affected by a proposed assessment shall be sent by first class mail, addressed to the owner or his agent. If the address of the owner or of the owner's agent is unknown to the City Administrator, he/she shall mail the notice addressed to the owner or his agent at Gold Beach, Oregon. Any mistake, 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 owner, or if personal service cannot be had, then by publication once (1) a week for two (2) successive weeks in a newspaper of general circulation in the city.

(4) **Alternative Methods of Financing.** When, in the opinion of the Council, on account of topographical or physical layout, unusual or excessive public travel, or other character of work is involved, or when the Council otherwise believes the situation warrants it, it may pay what it deems a fair proportion of the cost of such improvement in relation to the benefits derived by the property directly benefited from general funds of the City, and the amount to be assessed to the property benefited shall be proportionately reduced. Nothing herein contained shall preclude the Council from using other available means of financing improvements, including federal or state grant-in-aid, sewer service or other types of service charges, revenue bonds, general obligation bonds, or other legal means of finances. In the event any of such other means of finance are used, the Council may, in its discretion, levy special assessments hereunder to cover any part of the costs of the improvement not covered by such means.

(5) **Appeal.** Any person feeling aggrieved by assessments made as herein provided may, within twenty (20) days from the passage of the ordinance levying the assessment by the Council, appeal there from to the circuit court of the state of Oregon for Curry County. Such appeal and the requirements and formalities thereof shall be heard, governed, and determined and the judgment thereon rendered and enforced so far as practicable in the manner provided for appeals from assessments in ORS 223.401, as now or hereafter amended. The result of such appeal shall be a final and conclusive determination of the matter of such assessment, except with respect to the City's right of reassessment as provided herein.

(6) Lien Recording; Notice of Assessment; Foreclosure.

(a) The Council upon completion of the project shall adopt a resolution directing the City Administrator to enter in the docket of City liens a statement of the respective amounts assessed upon each particular lot or parcel of land with the names of the record owners thereof. Upon such entry in the lien docket, the amounts so entered shall be immediately due and payable and shall be a lien and charge upon the respective lots, tracts, and parcels of land against which the same are placed. Such liens shall be superior to all other liens, except as otherwise provided by law.

(b) Within ten (10) days after making the entry in the City lien docket, the City Administrator shall cause notice of the assessment to be published once in a newspaper of general circulation in the City and to be mailed or personally delivered to the owners of the assessed lots. The notice shall contain a brief statement of the assessments and shall state that upon failure of the owner to make application to pay the assessment in installments as provided by ORS 223.205-223.330 (Bancroft Bonding Act), or upon failure of the owner to pay the assessment in full within thirty (30) days from the effective date of the assessment ordinance, then interest will commence to run at the rate determined by the City. In the event that any installment payments elected by the owner are not paid in full within thirty (30) days of the installment payment due date, the City may add a late fee of \$10 for each such late payment. All late fees incurred shall be added to the lien on the property which is established by subsection (a) of this section. The amount of the late fee may be modified by a resolution adopted by the City Council.

(c) The City of Gold Beach may proceed to foreclose as delinquent any lien sixty (60) days after the same shall have been entered in the lien docket, as provided for foreclosures of liens in ORS 223.505-223.650, as now constituted or hereafter amended.

(7) Deficit Assessment. If the assessment is made before the total costs are known, and it be found that the amount assessed is insufficient to defray the expenses of the project, the Council may by resolution declare such deficit and prepare a proposed deficit assessment. The City Administrator shall give notice thereof and of the hearing of objection thereto as above described with reference to the original report, and the Council upon such hearing shall make a just and equitable deficit assessment. Such deficit assessment shall be consolidated with the assessment in the lien docket.

(8) Rebate. If, upon the completion of the project, it is found that any sum assessed therefore upon any property is more than sufficient to pay the cost thereof, the Council must ascertain and declare the same, and when so declared it must be entered in the docket of City liens as a credit upon the appropriate assessment. If any such assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the payment of any portion of the rebate credit which exceeds the assessment by a warrant on the City treasurer.

(9) Abandonment of Proceedings. The Council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consummation of such proceedings, and if liens have been assessed upon any property under this procedure, they shall be canceled, and any payments made thereon shall be refunded to the payer, his assigns, or legal representatives.

(10) **Curative Provisions.** No assessment shall be invalid by reason of a failure to give in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket, or elsewhere in the proceedings, the name of the owner of any lot, tract, or parcel of land or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person or the entry of a name other than the name of such owner or other 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 or steps hereinbefore specified, unless it appears that reasonable notice has not been given of the hearing upon the proposed assessment or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the shall have power and authority to remedy and correct all such matters by suitable action and proceedings.

(11) **Reassessments.** If a local improvement assessment is declared void by a court, or if the Council is in doubt as to the validity of the assessment, the Council may reassess the cost of the improvement, in the manner provided by ORS 223.405 to 223.485, as now constituted or hereafter amended.

Streets

2.205 Standards and Specifications for Streets.

(1) All parcels of land intended for vehicular use by the general public shall be offered for dedication, except as otherwise provided herein.

(2) The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and to the proposed use of the land to be served by the streets. Street determination shall be coordinated with consideration of access to building sites and with need for utility locations. Proposed streets shall provide for the continuance or appropriate projection of existing streets in the surrounding area and otherwise meet standards as outlined below.

(3) Standard minimum roadway requirements. Unless otherwise indicated in the transportation element of the comprehensive plan, or in an adopted neighborhood circulation plan, the street right-of-way and roadway widths shall not be less than the minimums shown in table 1 and where applicable Table 2.

TABLE 1

Standard Minimum Roadway Requirements

A: Minimum standards where both public water and public sewer are available.

TABLE 2

Hillside Minimum Roadway Requirements

Type of Street	Minimum Right-of Way Width (feet) **	Minimum Paved Roadway (Curb) Width (feet)	Minimum Sidewalk Width (feet) ****	Average Grade %*
Arterial	80	44	5-both sides	8
Collector	50	36	4-both sides	10
Residential	50	32	4-both sides 5-one side only	12
Cul-de-sac Radius	50	36***		
Commercial/ Industrial	60-80	44	5-both sides	
Alley	20	20		

* Maximum of 200 feet can be to 18 percent.

** Additional right-of-way may be required for adequate protection of cuts and fills, slide hazard, and drainage problems.

*** No on street parking where minimum standard is used. Developer is responsible for no parking signage subject to city requirements.

**** Suitable alternative pedestrian routes may be provided as approved by planning commission.

Note: All streets within this section shall have curbs and gutters.

B: Minimum standards for residential streets in areas where public sewer and/or public water are not available.

1. Minimum right of way width - 50 feet.
2. Minimum paved roadway surface - 24 feet.
3. Minimum cul-de-sac radius requirements - 50 feet right of way, 30 feet paved.
4. Road surface shall be striped with a 4 foot walk/bike lane on one side.
5. Roadways may have gravel shoulders.
6. No on street parking is allowed where minimum standard is proposed. Developer is responsible for applicable signage subject to city requirements.

(4) Notwithstanding minimum standards as specified in Table 1 (A) above, the following optional residential roadway standards found in Table 2 may be used in areas where the average slope within the project area is greater than 15 percent. Area slope calculations shall be done by a licensed engineer or surveyor and shall be approved by the city engineer.

TABLE 2

Hillside Minimum Roadway Requirements

Minimum Right-of-Way Width (feet)	Minimum Paved Roadway (Curb face to curb face) Width (feet)	Marked Walk/ Bike Lane	Average Grade	Curb/Gutter
50 feet	26*	4'-one side (Same as Standard Road)		

*Parking requirement

Parking bays as illustrated on Figure 1, shall be required to provide on street parking at regular intervals along the roadway. These parking bays shall be spaced no more than 300 feet apart and shall provide on street parking at a minimum rate of two (2) spaces for every lot proposed. These spaces are not to be assigned to specific lots or parcels. It should be noted that this requirement does not effect the off street residential parking requirement.

A buffered parking bay (Figure 1) may be required by the planning commission in more active street areas.

(5) Cul-de-sacs. A cul-de-sac street shall be as short as possible and shall have a maximum length of 500 feet notwithstanding this requirement the length may be extended up to 800 feet without a variance if the planning commission determines that unusual circumstances exist and based upon written documentation from the City Engineer and Fire Chief indicating that said extension will not create a hazardous situation.

(6) Curves. Centerline radii of curves shall not be less than 300 feet on arterials, 200 feet on collectors, or 100 feet on residential streets.

(7) Construction of Streets and Roads to Meet Engineering Requirements. All streets and roads constructed within the City of Gold Beach shall be constructed to the specifications of the City Engineer and in accordance with the "Standard Specifications and Engineering Requirements for Public Works Improvements" approved by the City Engineer, which Standard Specifications are hereby adopted and incorporated by reference.

(8) Construction of Streets and Roads to Meet Public Works Requirements. All streets and roads constructed within the city of Gold Beach shall be constructed to the "Standard Specifications for Public Works Construction" as published by the American Public Works Association, Oregon Chapter, which are now in effect or which shall take effect in the future.

These specifications are hereby adopted and incorporated by reference.

(9) **Alleys.** When any lots are proposed for commercial or industrial usage, alleys at least 20 feet in width shall be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved.

(10) **Street alignment.** As far as practical, streets shall be in alignment with existing streets by continuation of the centerline thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.

(11) **Intersection radius.** Intersections of streets with fewer than four (4) moving lanes of traffic for each street shall have a corner radius at the right-of-way line of not less than 30 feet. The City Engineer may approve exceptions up to 5 feet less in order to match exiting conditions or provide desired design controls.

(12) **Street intersection angles.** All streets within or abutting a development shall intersect one another at an angle as near to a right angle as is practicable in each specific case unless otherwise necessitated by topographical conditions or other pre-existing conditions.

(13) It is the desire of the City to have all preexisting nonconforming public roads brought up to, at minimum, the minimum standards set forth above. However, in cases, due to topography, water courses or odd shaped parcels or any other special circumstances whereby it is impractical to comply with the above, said requirements may be modified in such a manner as necessitated by the circumstances after inspection and written recommendation of the City Engineer, and approval of the City Council.

2.206 Driveway approaches. The location and width of access driveways onto public streets shall be subject to the following design standards and criteria:

(1) Minimum/maximum approach width, drive separation:

Use	Minimum Width	Optimum Width	Maximum Width between drives	Separation
Single and two family dwellings	12'	15'	24'*	5'
All other residential	15'	24'	32'	22'
Commercial	24'	24'	32'	22'
Industrial	24'	30'	48'	22'

*For up to two (2) parking stalls. For each additional parking stall within a garage that faces the street from which it is accessed, an additional 12 feet of width may be added.

(2) Distance from intersection. Driveway approaches shall be positioned from the intersection of a residential street a distance of no less than 20 feet and 100 feet for collector and

arterial streets, provided however that such distances may be reduced by the city engineer where impractical due to lot configuration and/or width.

(3) Number of accesses permitted. Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe traffic circulation and carrying capacity of the street. Except as further restricted by this section, properties of less than 100 feet of frontage shall be limited to two (2) access lanes per frontage which may be together or separate and properties exceeding 100 feet of frontage shall be limited to two (2) access lanes per each 100 feet of frontage.

(4) Access driveway grade and surfacing. All driveway aprons shall be paved to a minimum 5 foot width. Access driveways shall have a minimum travel surface of 12 feet for single and two (2) family residential and 15 feet for all other residential accesses, 24 feet for commercial and industrial accesses. Driveways shall be no greater than 20 percent and shall be paved if greater than 12 percent. Driveway plans shall be approved by the City Planning Director and City Engineer.

2.207 Street lights. Street lighting shall be provided along all proposed streets within the City, and shall be provided to the following standards:

(1) Location. As part of a new street development, street lighting shall be installed at intersections and at a maximum distance of 220 feet apart with the following exceptions:

(a) A cul-de-sac where the terminus is less than 150 feet from the nearest lighted intersection; otherwise, a street light shall be installed at the end of a cul-de-sac.

(b) For streets serving industrial areas, there shall be a minimum of one (1) street light at each intersection.

(2) Service. Nearest facility carrying 120 volts secondary and controlled by individual photoelectric control devices. All services shall be underground.

(3) Materials and height. Galvanized steel, concrete, aluminum or fiberglass, or on existing wood distribution facilities, 25 to 30 feet in height.

(4) Design standards for roadway average maintained luminance. The following luminance values represent the lowest average maintained values that are currently considered appropriate for the following roadways (measured in foot-candles):

Classification	Commercial Areas	Industrial Areas	Residential Areas*
Arterial	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Residential	0.9	0.6	0.4

*Mercury vapor luminaries only

(5) Alternate Standards. Notwithstanding the above standard coastal road development or other development where light pollution may be a concern in residential zones

may propose alternative lighting standards, provided that the level of luminance resulting from the proposed alternate standards is equivalent to the level of luminance provided by the typical standards, as provided in Sections 1-4 above. The request for alternate standards shall be accompanied by calculations demonstrating equivalent luminance by an engineer registered in Oregon, and must be approved by the City Engineer. Power for and maintenance of alternate standards shall be the responsibility of the homeowners whose property is served by the alternate standards, through the means of a Homeowners Association, formed in accordance with Oregon law. The Homeowners Association shall hold the City harmless from damage claims arising from negligence on the part of the Homeowners Association in supplying power to or maintenance of said alternate standards. The City Attorney must review and approve the bylaws, covenants, codes and restrictions of the Homeowners Association for the proposed alternate standards.

2.208 Street Definitions.

(1) Arterial Street. A street of considerable continuity which is primarily a traffic artery for intercommunication between major geographic areas or which carries a heavy volume of traffic.

(2) Collector Street. A street supplementary to the arterial road system and used for both through traffic and access to abutting properties.

(3) Residential Street. A street providing direct access to abutting residential property lot size and or dwelling density potential indicate urban residential traffic volume.

2.210 Regulations for Streets.

(1) No Alterations. No person shall modify, alter or change any existing street in any manner which would result in the street being out of conformance with the Standard Specifications required by Section 2.205(1) of this Code or which would render conformance with the Standard Specifications more difficult or expensive, without the prior appraisal of the City Council.

(2) Application Requirements. It shall be unlawful for any person to obstruct, cut, break, dig up, damage in any manner, undermine or tunnel under any public street or alley without first making application to the City of Gold Beach, depositing security, and obtaining a permit therefore as provided in this Section.

(3) Application for Permit. Applications for said permits shall be in written form prescribed by the City Administrator's office and shall specify the name and address of the applicant; the date of the application; the name of the street or alley to be cut or tunneled under; the exact location of the cut or tunnel; the nature of the street surface involved; the purpose of the work; the size and nature of the cut or tunnel; the number of days required to complete the work; and an agreement to deposit such security as required by the City to comply with the provisions of this Section and with the specifications of the City pertaining to the conduct of the work; the type and manner of material replacement to save the City and its employees harmless against any injury or damage that may result from the acts of the applicant, and to file a report of the work done within 24 hours of its completion. Application for each permit to be issued for a limited

time and for a specific cut or tunnel in the street or alley shall be accompanied by a fee determined by Resolution of the City Council.

(4) **Security.** Before the issuance of any permit, the City shall require the applicant to file with the City either:

(a) A surety bond in an amount fixed by the City, conditioned that the applicant will, immediately upon the completion of the work, remove all surplus earth, rubbish or other material, replace the pavement cut or undermining in a condition as good as or better than it was before, and keep the same in good repair, at his own expense, for a period of time to be designated by the City, but not to exceed one (1) year from the completion of said work.

(b) Cash or certified check in an amount equal to twice the estimated replacement cost of the pavement to be cut, together with the cost of re-excavation and refilling with proper material, if necessary, as determined by the City, to be held and returned, subject to the same conditions as set forth above in the case of surety bonds.

(c) A blanket surety bond to cover all street cuts and tunnels made by any particular applicant for a period of one (1) year from completion of the last cut or tunnel made, in an amount to be fixed by the City, but not to exceed \$5,000, and subject to the same conditions as stated above with reference to bonds for particular street cuts.

(5) **Issuance of Permit.** If the City Administrator is satisfied that the excavation, cut or tunnel is feasible and proper, that the application has been made in due form, and that adequate security has been filed as required by the provisions of this Section, a permit shall be issued which shall designate the name and address of the person to whom the permit is granted; the date of the issuance of the permit; the street or streets or alley to be cut, tunneled under, or obstructed; the nature of the street surface or pavement involved; the purpose of the work; the size and nature of the cut, excavation or obstruction; the estimated cost of restoration; the nature and amount of security deposited; the time within which the work is to be completed, as determined by the City; and such other restrictions, specifications, and regulations as may be deemed necessary or proper by the City for the safety of the public and the protection of the public interest.

(6) **Conduct of Work.** All work under said permits shall be done in conformity with the provisions of this Section, the terms of said applications and permits, and under the supervision and subject to the approval of the City. Upon completion of the excavation, cut, tunnel, or obstruction, all surplus earth, rubbish, or other material shall be removed immediately and street or surface pavement shall be replaced in as good as or better condition that it was before.

(7) **Adherence to and Exhibition of Permits.** No work shall be undertaken other than that specified in the application and permit for the particular cut, excavation, tunnel, or obstruction. Upon demand of any City officer or employee, said permits shall be produced at the place where the work is in progress, or such work shall be stopped until said permit is produced.

(8) **Barricades and Safety Measures.** Whenever any person or corporation shall,

under the authority of this Section or otherwise, place any obstruction in any street or alley or make any excavation therein for any purpose whatsoever, it shall be the duty of such person or corporation to keep such obstruction or excavation properly safeguarded by substantial barricades and to display lighted lanterns or other lights or flares from dusk until daylight in conformity with such regulations as may be specified by the City. Whenever, in the opinion of the City, the public safety is so seriously endangered by said cuts, excavations, tunnels, or obstructions, as to require constant supervision from dusk to daylight to ensure that all barricades are in proper condition, that all warning lights are burning, and that traffic is properly routed around such barricades, the persons to whom the permit for the work has been granted shall be responsible for furnishing a night watchman for that purpose.

(9) Liability for Accidents. Every person or corporation having occasion to place any obstruction in any street or alley or to make any excavation therein under the provisions of this Section or otherwise, shall be responsible to anyone for any injury or damage by reason of the presence of such obstruction or excavation in the public streets and alleys and also shall be liable to the City of Gold Beach, in the event that the City shall be held responsible for any accident claims or otherwise arising out of the presence of any such obstruction or excavation in said public streets or alleys.

(10) Liability Insurance. No permit shall be granted, or cut or obstruction made, pursuant to this Section or otherwise, until the applicant therefore shall deliver unto the City sufficient proof, in writing, that said applicant has in force a policy or policies of insurance covering the liability occasioned by said cut or obstruction in the minimum amounts necessary to insure against any and all liability the City may have under the Oregon Tort Claims Act.

The City and said applicant shall be named insured in said policy or policies of insurance or, if a general liability policy is in force covering said applicant, said policy shall contain a provision, or such provision shall be added thereto, which generally protects and covers the owners of properties upon which said applicant is working.

(11) Repairs. All persons to whom such permits are granted shall be personally responsible for the maintenance and repair of the street surface or pavement cut, dug up, damaged, tunneled under, or undermined under the provisions of said permits, in as good as or better condition than before such work was undertaken, at their own expense and for such period of time as may be required by the City, but not to exceed one year.

(12) Option to City to Replace Pavement. Whenever, in the opinion of the City, it would be to the best interests of the City for the City itself to replace or repair the street surface or pavement cut, dug up, damaged, tunneled under, or undermined under the provisions of this Section, such work shall be done by the City and the cost of said work shall be either charged to the person to whom the permit for the said cut, excavation, or tunnel has been granted or deducted from the security deposited by him with the City.

(13) Application to City Employees and Public Utilities. The provisions of this Section shall not be deemed to apply to the construction or maintenance of pavement by the City, by its employees, or by persons operating under contract with the City, nor to cuts or excavations made by the employees of the City water department, nor to the public utility corporations operating under the provisions of franchises regulating street cuts or excavations by such

corporations; but both the employees of the City and all public utility corporations shall give prior notice to the City of all street cuts and obstructions that would otherwise be subject to the provisions of this Section.

(14) Violations. The City shall have the authority to commence such suits, actions, or proceedings as may be necessary in courts of competent jurisdiction to restrain violations of this Section, or to collect damages therefore. In addition, such suits, actions, or proceedings as may be necessary, may be brought against persons obtaining permits under this Section who fail to properly repair streets as set forth herein, upon the bond given to the City, or if security deposits are insufficient. In any such suit, action or proceedings, the City may recover, in addition to the actual damage and costs, such sum as the court may adjudge reasonable as attorney's fees.

Sidewalks

2.305 Construction, Alteration and Repair of Sidewalks.

(1) Duty to Repair Sidewalks. It is the duty of an owner or occupant of land adjoining a city street to maintain in good repair the adjacent sidewalk whenever it becomes damaged or deteriorated in any way whatsoever.

(2) Liability for Sidewalk Injuries.

(a) The owner of real property responsible for maintaining the adjacent sidewalk shall be primarily liable to any person injured because of any negligence of such owner in failing to maintain the sidewalk in good condition.

(b) If the City is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty which this section (2) imposes, the person shall compensate the City for the amount of the damages thus paid. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

(3) Standards and Specifications. Sidewalks shall be constructed, altered and repaired in accordance with City's Standard Specifications and Engineering Requirements for Public Works Improvements. Such Standard Specifications shall be on file at the City Administrator's office and are adopted by reference as if fully set forth herein.

(4) Submission of Plans. No person shall construct, alter or repair a sidewalk within the City without first making application for a permit and submitting the plans and specifications for the proposed work. Said application shall be made to the City Administrator's office, and all applicable standards and specifications established under section (3) herein shall be met by said plans. Thereafter, the City Administrator may issue a permit for the proposed work. The applicant shall pay the permit fee established by Resolution of the City Council.

(5) Supervision of Work. The construction, alteration or repair of sidewalks shall be under the supervision of the City Administrator. The City Administrator or his/her designee may

inspect any materials and construction details as in his/her judgment may be necessary to ensure compliance with the applicable standards and specifications.

(6) Notice to Repair or Make Alterations.

(a) If the adjoining property owner does not maintain the sidewalk in good repair and the City Council determines, in the exercise of its discretion, to require alteration or repair of the sidewalk, the City Council may, by resolution, direct the City Administrator to issue a notice.

(b) The notice shall require the owner of the property adjacent to the sidewalk to complete the work within sixty (60) days after service of notice. The notice shall also state that if the work is not completed by the owner within the 60-day time period, the City may complete it and assess the cost against the property adjacent to the sidewalk.

(c) The City Administrator shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the City Administrator shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.

(d) The person serving the notice shall file with the City Administrator's office a statement stating the time, place and manner of service of notice.

(7) City May Alter or Repair Sidewalk. If the sidewalk alteration or repair is not completed within sixty (60) days after service of the notice, the City Administrator may complete it. Upon completion of the project, the City Administrator shall submit a report to the Council. The report shall contain an itemized statement of the cost of the work.

(8) Assessment for Sidewalk Work Done by City. Upon receipt of the report, the Council, by ordinance, shall assess the cost of the work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as is provided for the collection of street improvement assessments.

(9) Sidewalk Construction Requested by the Property Owner. If a property owner petitions the Council for an order to build a sidewalk on the part of the street abutting on his property agrees to pay cash or to make application to pay the cost in installments as provided by the Bancroft Bonding Act (ORS 223.205 to 223.300), waives the right of service and publication of notice of construction, and consents to the assessment of the property upon which the sidewalk abuts, the Council may order the construction of the requested sidewalk, if in its judgment the sidewalk should be built.

Penalty

2.990 Penalty.

Violation of this Code is punishable by a fine not to exceed \$300. Each day's violation of a provision of this Code shall constitute a separate offense. The Gold Beach City Council may amend the maximum penalty from time to time by resolution.