

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Action: An Ordinance Concerning Assessments for Street Improvements

Meeting Date: December 13, 2010
Department: Public Works
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Agenda Item Number: 8
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ISSUE STATEMENT

The City Council is requested to adopt Ordinance Version C and pass the recommended motion to amend the ordinance. The ordinance and amendment will change the computation, apportionment and deferral of street improvement assessments.

BACKGROUND

At its March 9, 2009, work session, the City Council identified issues of concern with the City's current assessment policy and expressed interest in forming a council subcommittee to review the issues of concern and to propose revisions to the Eugene Code to the council.

A Council Subcommittee on Street Assessment Policy was formed in late 2009, and included Councilors Taylor, Solomon and Poling. The subcommittee established the following charge to guide its work –

Review the existing Eugene Code on assessments and the inequities in the Code identified by the City Council and develop recommended changes in the Code for the consideration of the City Council.

The council subcommittee met five times over the course of four months and reached consensus on a number of recommendations for the City Council to consider. There were also several issues that the council subcommittee did not reach consensus on.

At its September 22, 2010, meeting, the City Council reviewed the recommendations of the council subcommittee and the issues where there was not consensus by the council subcommittee. The City Council directed the City Manager to develop an ordinance to implement the proposed changes to the Eugene Code and schedule a public hearing on the ordinance. On several issues the City Council deferred making a decision until after the public hearing.

The City Council held a public hearing on the proposed ordinance on November 15, 2010. Based on City Council discussion at the public hearing, attached to this agenda item summary (AIS) as Attachments A, B and C are the three options for apportioning assessable costs among non-residential properties. As discussed at the public hearing, the method of apportionment may be based upon lot frontage (Ordinance Version A, Attachment A), lot area (Ordinance Version B, Attachment B) or a combination of lot frontage and area (Ordinance Version C, Attachment C).

Also based on the City Council discussion at the public hearing, included in this AIS, and specifically set out in Attachment D to this AIS, is a motion to amend the ordinance to establish a lower assessment (75 percent as much as properties abutting the street to be improved) for properties on already-improved cul-de-sacs and dead-end streets that are dependent upon the street being improved for access to the street system and that are to be included in the local improvement district for the street improvement.

Summary of Changes to the Eugene Code

The following paragraphs summarize the changes to the Eugene Code that will affect the computation, apportionment and deferral of street assessments.

- The method of apportionment of assessable costs between residential and non-residential properties will be based upon lot frontage, lot area or a combination of lot frontage and area.
- A uniform assessment methodology is established for residential properties based upon a residential assessment unit (RAU) with single family, duplex and tri-plex dwellings being assigned one RAU and multi-family dwellings being assigned 0.25 RAU per dwelling unit.
- The method of apportionment of assessable costs among non-residential properties will be based upon lot frontage, lot area or a combination of lot frontage and area.
- Properties on cul-de-sacs and dead-end streets that are dependent upon the street being improved for access to the street system will be included in the local improvement district and be assessed for the street improvement.
- Street assessments may be deferred until the sale or transfer of property. The deferral would be limited to owner-occupied single-family and duplex homes and contingent on the availability of funds. Eligible property owners may defer their assessment or receive a low-income subsidy, but cannot receive both forms of assistance.

Related Policy Implications

The following paragraphs outline the policy implications of proposed changes that were identified in the council work session or that became apparent with the development of the draft ordinance.

- Currently, the Eugene Code makes a distinction between vacant, partially developed and developed properties and between properties less than a ½ acre and equal to or greater than ½ acre in size when determining assessable frontage and timing of assessment. The “partially developed” distinction will no longer apply – the residential assessment unit (RAU) applies to residentially zoned lots developed with single-family or duplex dwellings irrespective of lot size. The ½ acre size applies only to vacant lots and affects only the timing of payment of the assessment.
- For vacant lots in a residential zone, the number of assessment units is determined by the minimum number of dwelling units required per acre (minimum density required) in the zone; currently, there is no minimum density per acre required in a low density residential zone, so vacant lots of any size in this zone would be assessed only the minimum of one RAU.

- Currently, assessable paving-width adjustments on arterial/collector streets apply only to lots in a low-density residential zone. In order to implement a uniform residential assessment unit, these assessable paving-width criteria would be applied to all residential lots.
- Over time some properties on cul-de-sacs and dead-end streets may be assessed for the improvement of more than one street.
- The method of assessment for sidewalks is separate from the method for streets and will continue to be based upon front-footage and assessed to the abutting property.
- Properties on already-improved cul-de-sacs and dead-end streets that are dependent upon the street being improved for access to the street system will be included in the local improvement district for the street improvement and may be assessed the same or, optionally, three-quarters as much as properties abutting the street to be improved. (See Attachment D, Amendment to Ordinance Version C.)

RELATED CITY POLICIES

Chapter 223 of the Oregon Revised Statutes prescribes the rights and responsibilities of cities to levy assessments for local improvements. The Municipal Charter, Chapter IX – Public Improvements provides the regulatory framework for public improvement procedures and assessments. The Eugene Code, Chapter 7 – Public Improvements prescribes the process for initiation of an assessment project, formation of a local improvement district, and computation and allocation of assessments to benefiting properties.

COUNCIL OPTIONS

1. Adopt Ordinance Version A.
2. Adopt Ordinance Version B.
3. Adopt Ordinance Version C.
4. Adopt Ordinance Version A, B or C and an amendment to reduce by 25 percent the assessment of parcels located on a previously improved dead-end street or cul-de-sac.
5. Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the City Council adopt Ordinance Version C and the amendment set forth in Attachment D that reduces by 25% the assessment of parcels located on a previously improved dead end street or cul-de-sac.

SUGGESTED MOTIONS

Move to adopt an ordinance concerning assessments for street improvements included as Ordinance Version C.

Move to amend Ordinance Version C to reduce by 25 percent the assessment of residential and non-residential parcels located on a previously improved dead-end street or cul-de-sac as shown in Attachment D.

ATTACHMENTS

- A. Ordinance Version A (non-residential lot frontage)
- B. Ordinance Version B (non-residential lot area)
- C. Ordinance Version C (non-residential combination lot frontage and lot area)
- D. Amendment to Ordinance Version C

FOR MORE INFORMATION

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ORDINANCE NO. _____

AN ORDINANCE CONCERNING ASSESSMENTS FOR STREET IMPROVEMENTS; AMENDING SECTIONS OF CHAPTER 7 OF THE EUGENE CODE, 1971, INCLUDING SECTION 7.175; ADDING A NEW SECTION 7.180 TO THAT CODE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.010 of the Eugene Code, 1971, is amended by adding the following definitions in alphabetical order to provide as follows:

7.010 **Definitions.** For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

Cul-de-sac. ***A dead-end street intended for local traffic that terminates with a bulb or other turnaround for use by appropriate vehicles, including emergency vehicles.***

Residential Assessment Unit. ***A unit of measure, for purposes of assessing residential property for street improvement under chapter 7 of this code, equivalent to the uniform benefit of a property developed with a single-family dwelling, duplex or triplex.***

Section 2. Section 7.170 of the Eugene Code, 1971, is amended to provide as follows:

7.170 **Local Improvements - Assessments - Computation.**

- (1) For a local improvement ordered by the council the total estimated cost or the total cost of the improvement shall be computed by the city engineer and shall include but not be limited to the costs of constructing the improvement, engineering, interest on warrants, advertising, and providing notice of assessments and overhead. [~~The city engineer shall apportion the total estimated cost or the total cost of the improvement in accordance with section 7.175.~~]
- (2) ***The total estimated cost or the total cost of all improvements shall be divided among the properties included in the local improvement district and the city in accordance with section 7.175. The total estimated cost or the total cost of street improvements shall be divided among the properties included in the local improvement district and the city in accordance with section 7.175 and 7.180.***
- (23) For purposes of assessing property under chapter 7 of this code, property shall be deemed to abut a local improvement, whether the local improvement is a sidewalk, street, or other local improvement, if the property physically touches (i.e. is directly adjacent to) a public way within which the local improvement is located.
- (4) ***For purposes of assessing property for street improvements under***

chapter 7 of this code, property shall be deemed to be served by a local improvement if, at the time of LID formation, the property:

- (a) Abuts the street being improved; or,*
- (b) Is located on a dead end street or cul-de-sac and is dependent upon the street being improved for access to the street system.*

Section 3. Section 7.175 of the Eugene Code, 1971, is amended by amending subsections (1) and (2); deleting subsections (3) through (5) and renumbering subsections (6) through (12) to subsections (3) through (9); and amending renumbered subsections (4) and (9) to provide as follows:

7.175 Local Improvements - Apportionment of Assessments.

- (1)** Whatever share of the total actual project costs of the local improvement is to be borne by the city and by sources of funds other than assessments shall be deducted from the total project costs before they are apportioned and assessed under this section. The city shall pay the costs of the following, provided funds are available and the project has appropriate priority:
 - (a) Components of the local improvement that will not be assessed pursuant to subsections (2) through ~~[(42)]~~ **(9)** of this section 7.175 **and subsections 7.180 (2) through (5)**;
 - (b) Street improvements and sidewalks within the intersection of public ways other than intersections of new streets within the boundaries of a new development;
 - (c) A portion of the street and alley improvements for a lot or parcel upon which one single family dwelling or duplex exists which is owned and occupied by low-moderate income person(s) and which property is adjacent to *an* ~~[street or]~~ **alley or served by a street** which is unimproved or improved with substandard improvements at the time the local improvement district is formed if the street or alley improvement is initiated by the council or by property owner petition.
 - (d) Features of storm sewers constructed as part of a street improvement project within existing developed areas which are in addition to those necessary to properly drain the surface of the street being improved and to provide water quality treatment to the runoff from the street surface;
 - (e) Other costs attributable to special conditions or to policies adopted prior to or at the time the council adopts the resolution forming the local improvement district.
- (2)** The assessments for individual parcels of real property shall be calculated and assessed as follows against the property specially benefitted by the local improvement:
 - (a) Special costs or features of the improvement that benefit a particular parcel or parcels in a manner peculiar to the parcel(s) shall, together with a share of the overhead for the improvement, be assessed separately against each benefitted parcel.
 - (b) The remainder of the **assessable** costs of the improvement shall be assessed **and apportioned** as described in subsections (3) through ~~[(42)]~~ **(9)** of this section **and section 7.180.**

- (c) Notwithstanding any provision in subsections (3) through [(12)] **(9)** of this section **and section 7.180**, the city engineer may accept an alternative means of assessments or other means of collecting funds for local improvements if:
 - 1. The alternative means is approved by all affected property owners; and
 - 2. The city engineer determines that the alternative means adequately protects the city's interest in recovering its costs.

~~[(3) Street construction assessments—General.—~~

- ~~(a) Assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in section 7.175(4) and (5) (including, but not limited to street structure of a thickness determined by the city engineer as provided in sections 7.175(4)(a) and 7.175(5)(a), lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins; piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.~~
- ~~(b) Except when special circumstances exist that are identified in the resolution creating an assessment district, assessments for street improvements generally shall be based on the number of linear feet of property to be assessed, as provided in sections 7.175(3)(d) and (e) and 7.175(5)(c), multiplied by the per-foot cost of the assessable components described in paragraph (a) of this subsection. The portion of the street pavement to be assessed against an individual parcel shall be based on the assessable widths identified in subsections 7.175(4)(b) and 7.175(5)(b). Where not all of the linear feet of a parcel abutting a street improvement are included in the assessment to be levied at the time the improvement is constructed, the parcel may be subject to a delayed equivalent assessment as provided in sections 7.175(3)(e) and (g), 7.175(4)(d) and 7.175(5)(d).~~
- ~~(c) For purposes of subsections 7.175(4) and (5), “development” means a structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to land designed, used or intended to serve such a structure or a business or other use whose employees or customers access the structure or business or other use from a street. “Developed parcel” means a parcel, or a group of parcels with development that functions as an integrated development, that at the time of substantial completion of the street improvement project has any development on it, except for ancillary structures on a parcel used exclusively for farm use. “Fully developed parcel” means a parcel that has development on it and that has no undeveloped portion that could be further partitioned or subdivided for purposes of additional development. “Partially developed parcel” means a parcel that has development on it but which has an undeveloped portion that could be further partitioned or subdivided in the future. “Vacant parcel” means a parcel that has no development on it.~~
- ~~(d) Vacant parcels less than one-half acre in size with residential zoning and fully developed parcels with a single family dwelling or duplex and residential zoning shall be assessed for the actual front footage abutting the improvement, except that no parcel shall be assessed for less than 50 feet of frontage or more than 100 feet of frontage.~~

- (e) ~~Partially developed parcels of one-half acre or larger with a single family dwelling or duplex in a single family or low density residential zone and having more than 100 feet of frontage abutting the improvement shall be assessed for 100 feet of frontage at the time of the improvement, and the remaining frontage shall be used to calculate an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d) and 7.407 of this code.~~
- (f) ~~Notwithstanding paragraphs (d) and (e) of this subsection and paragraph (b) of subsection 7.175(5), developed parcels used for a single family dwelling or a duplex in a single family or low density residential zone and the developed portions of partially developed parcels meeting the same description shall not be assessed for street improvements if they do not take primary access from the street being improved. Notwithstanding the foregoing sentence, if such a parcel abuts the street improvement and is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsections 7.175(4)(d) and 7.175(5)(d), even if the parcel does not take direct access from the street being improved. For purposes of this section, a parcel "takes primary access" from a street if the parcel abuts only that street or, in cases where a parcel abuts two or more streets, the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to take primary access from both streets.~~
- (g) ~~Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d), and 7.407 of this code.~~
- (h) ~~Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.~~
- (i) ~~Except as otherwise provided in section 7.175 of this code, a parcel shall be assessed for the actual full footage abutting the improvement.~~
- (4) ~~Local streets:~~**
 - (a) ~~Calculation of assessments for improvements to a local street shall be as provided in this subsection 7.175(4). As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended. In addition to the components listed in subsection 7.175(3)(a), assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of the street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.~~
 - (b) ~~A parcel abutting a local street shall be assessed for an improvement to a local street according to the zoning of the parcel as follows:~~

1. ~~— A parcel with single-family or low-density residential zoning shall be assessed for a maximum of 17 feet of width.~~
 2. ~~— A parcel with zoning other than single-family or low-density residential zoning shall be assessed for a maximum of 22 feet of width.~~
- (c) ~~— The cost for the assessable width shall be apportioned to each parcel on the basis of its front footage abutting the improvement, except where subsection 7.175(3)(d) or (e) of this code provides for assessment of less than the full frontage. Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for additional width or special features in accordance with the engineer's determination.~~
- (d) ~~— Concerning a parcel or a portion thereof for which paragraphs (e) or (g) of subsection 7.175(3) require no assessment at the time of the improvement:~~
1. ~~— A person who receives a permit to develop such a parcel after the improvement has been constructed shall pay an equivalent assessment based upon the abutting front footage that was not previously assessed, to be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:~~
 - A. ~~— A permit is issued authorizing construction of a new driveway access to the local street;~~
 - B. ~~— A permit is issued authorizing construction of a new street that connects the parcel to the local street;~~
 - C. ~~— Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or~~
 - D. ~~— Construction of a new structure capable of human occupancy.~~
 2. ~~— A person who receives a permit to develop such a parcel before improvements to the abutting street have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 of this code when the street improvements are constructed.~~
- (5) ~~— Arterial and collector streets:~~
- (a) ~~— Calculation of assessments for improvements to an arterial or collector street shall be as provided in this subsection 7.175(5). As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector" mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications. In addition to the components listed in subsection 7.175(3)(a), assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness~~

determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local street use.

~~(b) In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities). Parcels within a low-density residential zone shall be assessed according to the functional classification of the street, as follows:~~

- ~~1. Major arterial – no paving or drainage.~~
- ~~2. Minor arterial – 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.~~
- ~~3. Major collector – 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.~~
- ~~4. Neighborhood collector – 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.~~

~~(c) With the exception of within a low-density residential zone, developed and partially developed parcels within all zones shall be assessed for the full frontage abutting the street improvement and for 10 feet of the pavement.~~

~~(d) Developed and partially developed parcels with non-conforming uses within a residential zone shall be assessed for the full frontage abutting the street improvement and for 10 feet of pavement.~~

~~(e) Concerning a parcel or portion thereof for which paragraphs (e) or (g), of subsection 7.175(3) require no assessment, a person who receives a permit to develop such a parcel, whether before or after the improvement has been constructed, shall pay an equivalent assessment based upon the abutting front footage of the parcel that was not previously assessed, to be calculated, reviewed, and paid as provided in section 7.407 of this code before any of the following occurs:~~

- ~~1. A permit is issued authorizing construction of a new driveway access to the arterial or collector street;~~
- ~~2. A permit is issued authorizing connection of a new street that connects the parcel to the arterial or collector street;~~
- ~~3. Any partition, subdivision or development of the parcel regulated by chapter 9 of this code is approved; or~~
- ~~4. Construction of a new structure capable of human occupancy.]~~

(74) Sidewalk assessments. Parcels abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalk, based on the front footage of the parcel abutting the sidewalk. [The front footage shall be ascertained in the same manner as for street improvement assessments.] Where, however, the council finds that the topography makes it unfeasible to construct a sidewalk on both sides of the street, the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the parcels on the opposite side of the street from the sidewalk, on the basis of the front footage abutting or directly across the street from the sidewalk, or the costs may also be apportioned on the basis of the area of sidewalk or driveway apron or both abutting each parcel, whichever basis is determined to be more equitable by the council.

(129) Without repeating the notice required by section 7.185, prior to enactment of the ordinance levying the assessment required by section 7.190, the proposed

assessments for individual parcels of real property calculated under subsection[s] 7.175(2) and ~~[7.175(3)]~~ **section 7.180** may be adjusted by a written agreement between the affected owners and the city engineer provided:

- (a) No parcel's adjusted proposed assessment exceeds the assessed value of the parcel at the time of the agreement;
- (b) The proposed adjusted assessment for any parcel subject to subsections 7.160(2) and (3) remains within the limitations imposed under subsections 7.160(2) and (3); and
- (c) There is no increase in the city's share of project costs or in assessments to other parcels within the project whose owners were not a party to the agreement.

Section 4. Section 7.180 of the Eugene Code, 1971, is added to provide as follows:

7.180 **Local Improvements – Street Assessments.**

(1) Assessment of Served Properties

- (a) *Except as otherwise provided in this section 7.180, all residential and nonresidential parcels served by a street to be improved shall be assessed for the assessable street improvement components. The cost for the assessable street improvement components for each parcel served by the improvement shall be apportioned in accordance with section 7.175 and subsections 7.180(2) through (5).***
- (b) *Even if a parcel is not served by a street being improved, if a parcel is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsection 7.180(5). When a parcel is served by two or more streets, the parcel is served by a street when the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to be served by both streets.***

(2) Assessable Street Improvement Components

- (a) *Except as provided in section 7.175(1), assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in subsections 7.180(3) and 7.180(4) (including, but not limited to street structure of a thickness determined by the city engineer, lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins, piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.***
- (b) *Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for***

additional width or special features in accordance with the engineer's determination.

- (c) *Assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of a local street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.*
- (d) *Assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local street use. In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities).*

(3) Residential Properties

- (a) *For purposes of this section 7.180, "residential property" means a parcel with residential zoning that is either vacant or developed with a single family, duplex or multi-family structure.*
- (b) *A parcel served by a local street to be improved shall be assessed for a maximum of 17 feet of pavement width and associated drainage system. As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended.*
- (c) *A parcel served by an arterial or collector street to be improved shall be assessed according to the functional classification of the street, as follows:*
 - 1. *Major arterial - no paving or drainage.*
 - 2. *Minor arterial - 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*
 - 3. *Major collector - 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*
 - 4. *Neighborhood collector - 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*

As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector" mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications.

- (d) *Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for street improvements shall be based on the cost per Residential Assessment Unit (RAU). The cost per RAU shall be determined by*

dividing the total costs apportioned to the residential properties by the total number of RAUs within the local improvement district.

(e) Non-Vacant Parcels

- 1. For purposes of this subsection 7.180(3), a parcel, regardless of size, is non-vacant if it contains a single family, duplex, triplex or multi-family dwelling structure.**
- 2. Parcels with a single family, duplex or triplex shall be assessed the cost of one RAU.**
- 3. Parcels with more than three dwelling units shall be assessed the cost of .25 RAU per dwelling unit.**

(f) Vacant Parcels

- 1. For purposes of this section, “vacant parcel” means a parcel that is not a “non-vacant” parcel as defined in subsection 7.180(3)(e).**
- 2. Vacant parcels of less than one-half acre in low density or single-family residential zones shall be assessed for the minimum number of dwelling units required in the zone by multiplying the minimum required number of dwelling units for the zone by the cost per RAU.**
- 3. Vacant parcels of less than one-half acre in zones other than low density or single-family residential zones shall be assessed for the minimum number of dwelling units required in the zone by multiplying the minimum required number of dwelling units for the zone by the cost of .25 RAU.**
- 4. Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with subsection 7.180(5) and 7.407 of this code.**

(4) Non-Residential Properties

- (a) For purposes of this section 7.180, “non-residential property” means a parcel that is not a “residential parcel” as that term is defined in subsection 7.180(3)(a).**
- (b) A parcel served by a local street to be improved shall be assessed for a maximum of 22 feet of pavement. A parcel served by an arterial or collector street to be improved shall be assessed for a maximum of 10 feet of pavement width and associated drainage system. The street classifications shall have the meanings provided in subsection 7.180(3).**
- (c) Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for street improvements shall be based on the total linear front footage of the property to be assessed.**
- (d) Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with subsection 7.180(5) and 7.407 of this code. “Vacant parcel” means a parcel that has no structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to the land designed, used or intended to serve such a structure or**

a business or other use whose employees or customers access the structure or business or other use from a street.

(5) Equivalent Assessment

- (a) *For purposes of this subsection (5), the minimum required number of dwelling units shall be based on the minimum dwelling units per acre required for the zone.***
- (b) *The equivalent assessment for residential parcels in low density or single-family residential zones not assessed at the time of the street improvement shall be determined by multiplying the minimum required number of dwelling units for the zone by the cost per RAU.***
- (c) *The equivalent assessment for residential parcels in zones other than low density or single-family residential zones not assessed at the time of the street improvement shall be determined by multiplying the minimum required number of dwelling units by the cost of .25 RAU.***
- (d) *The equivalent assessment for non-residential parcels not assessed at the time of the street improvement shall be based on the number of linear feet of property to be assessed.***
- (e) *Except as provided in subsection 7.180(5)(f), the equivalent assessment shall be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:***
 - 1. *A permit is issued authorizing construction of a new driveway access to the street;***
 - 2. *A permit is issued authorizing construction of a new street that connects the parcel to the street;***
 - 3. *Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or***
 - 4. *Construction of a new structure capable of human occupancy.***
- (f) *A person who receives a permit to develop a vacant parcel of one-half acre or more before improvements to a local street serving the parcel have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 and 7.180 of this code when the street improvements are constructed.***
- (g) *A person who receives a permit to develop a vacant parcel of one-half acre or more, whether before or after the improvements to an arterial or collector street serving the parcel have been constructed, shall pay an equivalent assessment in accordance with section 7.407 and subsection 7.180(5)(e).***
- (h) *Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.***

Section 5. Section 7.190 of the Eugene Code, 1971, is amended to provide as follows:

7.190 Local Improvements - Assessments - Levy and Notice Thereof.

- (1) The council by ordinance shall levy assessments on parcels of real property**

specially benefited by local improvements. Upon enactment of such an ordinance, the finance officer by first class mail shall give notice of the assessments to the owners of the assessed parcels. The notice shall state that each assessment may be paid in full, without interest, within ten days after the date of the assessment ordinance and that, if the assessment is not so paid, interest on the unpaid balance of the assessment will accrue as prescribed in the assessment ordinance until the assessment is paid, unless payment of the assessment is deferred **in accordance with chapter 7 of this code**~~[-under section 7.200]~~. The notice shall also state that the assessment may be paid in installments according to the terms set forth in the assessment ordinance, and shall include an application for so paying the assessment.

- (2) Unless otherwise specified by this code or by assessment ordinance, reference in this code to making assessment or lien payments in installments shall mean paying the obligation in up to 119 monthly installments or twenty (20) semi-annual installments including principal and interest at the rate set under section 2.022 of this code.
- (3) In addition to any deferral, extension or modification of payments authorized by this chapter, an assessment may be modified, compromised or canceled as provided in section 2.582 of this code.

Section 6. Section 7.193 of the Eugene Code, 1971, is added to provide as follows:

7.193 **Local Improvements – Deferral of Street Assessments.**

- (1) ***To the extent a funding source is available from a public entity or any other source approved by the council at the time the project is initiated that will provide the city with sufficient funds to ensure no initial cost to the city or affected property owners for the construction of the local improvements, parcels with an owner occupied single family dwelling or an owner occupied duplex dwelling assessed for street improvements may defer payment of the assessment until sale or transfer of the parcel.***
- (2) ***The deferred assessment shall become a lien on the property. The lien shall accrue interest from the date it is levied until the deferral ends at a variable rate to be adjusted annually to reflect the city's costs in providing the funding source. When the deferral ends, payment of the assessment and accrued interest shall be made as provided in section 7.190.***
- (3) ***An assessment deferred pursuant to this section is not subject to the requirements and criteria set forth in section 7.195 – 7.220 of this code.***
- (4) ***Property owners deferring payment pursuant to this section are not eligible to participate in the Improvement Assistant Program.***
- (5) ***A deferral under this section shall terminate if:***
 - (a) ***The owner granted the deferral sells or transfers to any other party fee title or a possessory interest in the parcel to which the deferral pertains, except sales or transfers between persons related by blood, marriage or adoption; or,***
 - (b) ***Title to the parcel passes to another party by devise or intestate succession; or,***
 - (c) ***The owner granted the deferral ceases to occupy the dwelling.***

Section 7. Section 7.407 of the Eugene Code, 1971, is amended to provide as follows:

7.407 **Equivalent Street Assessment.**

- (1) In addition to any application or permit fee required by section 7.385, when the owner of real property is required to obtain an access connection permit to take access onto a street for which the city has given a credit under subsections 7.730(3) and 7.730(4) based upon the size of the street improvements that would be assessable under subsection 7.175(2)(b) **and section 7.180**, the owner shall pay to the finance officer an equivalent assessment and any other fees required by the city before taking access to the street. If the property has delinquent local improvement assessments against it, before issuing the access connection permit, all delinquent assessments shall be brought current. The equivalent assessment shall be determined by the city engineer, taking into account the city policies regarding size of streets assessed to benefitted property, based on the greater of the credit given under subsection 7.730(3) or (4) for the street to which access is proposed or the cost at the time of taking access of local improvement assessments for similar streets. As used in this subsection "cost" includes the expenses identified in section 7.170. Any person aggrieved by the city engineer's determination of the equivalent assessment may seek its review before a hearings official by following the procedures in section 2.021 of this code. The petitioner shall have the burden of proof in such review.
- (2) Nothing in this section shall prevent the city from creating a local improvement district for street improvements under section 7.175 upon a determination that an existing street improvement for which the city has given credit under subsection 7.730(3) and (4) is determined to specially benefit property that did not pay for the street improvements. Such assessments shall be calculated upon the greater of the amount of credit given by the city or the cost of constructing a similar street improvement at the time of the formation of the local improvement district. If a property has been given an equivalent assessment under subsection 7.407(1) it may not be assessed again for the same street improvements.
- (3) Except as otherwise provided in subsection ~~[7.175(4)(d)2]~~ **7.180(5)(f)**, equivalent assessments required by ~~subsection [7.175(3), (4) and (5)]~~ **7.180(5)** shall be paid at the time of development by the person who receives a permit to develop the parcel as described in ~~subsection [7.175(5)(d)]~~ **7.180(5)(e)**. The equivalent assessment shall be calculated by the city engineer ~~[based on the front footage abutting the improvement, on the factors listed in section 7.175(5)(b)]~~ **in accordance with section 7.180(5)**, if applicable, and the engineer's estimate of what the costs of the improvement would be if the improvement were constructed at the time of the development giving rise to the obligation to pay the equivalent assessment.
- (4) In lieu of paying the equivalent assessment at the time of issuance of the curb cut permit or upon the occurrence of one of the events described in ~~subsection [7.175(5)(d) 1-4]~~ **7.180(5)(e)**, except where the development involves creation of a subdivision, the person obligated to pay the equivalent assessment may execute and deliver to the finance officer an agreement to pay the equivalent assessment in installments. The finance officer may accept an agreement to pay only if it is consistent with the limits established under subsection 7.160(2) and (3). Equivalent assessments paid as provided in this subsection shall be charged interest on the unpaid principal balance as

provided in section 2.022 of this code and are hereby declared a lien against the real property and shall be docketed in the lien docket of the city and may be foreclosed in the same manner as other assessment liens.

- (5) *The equivalent assessment required by this section shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.***

Section 8. The Code references in subsections 6.610(4), 7.155(1) and 7.160(9) of the Eugene Code, 1971, are amended to reflect the amendments to Section 7.175 and the addition of Section 7.180 adopted by this Ordinance.

Section 9. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 10. Sections 37, 38 and 39 of the Eugene Charter of 2002 require that procedures for making, altering, vacating or abandoning a public improvement, and the procedures for levying, collecting and enforcing the payment of special assessments for public improvements be regulated by general ordinance; that any ordinance amending those procedures not take effect for a period of six months after the date of adoption, and then only if the ordinance is approved by an affirmative vote of six councilors. Pursuant to those Charter provisions, the amendments to Sections 7.010, 7.170, 7.175, 7.190, and 7.407. of the Eugene Code, 1971, and the addition of Sections 7.180 and 7.193 of that Code, as provided in this Ordinance, shall become effective six months from the date of its passage by an affirmative vote of two-thirds of the members of the City Council. However, the amendments to those sections shall not apply to an improvement authorized by the City Council prior to the effective date of this Ordinance.

Passed by the City Council this

_____ day of December, 2010.

City Recorder

Approved by the Mayor this

_____ day of December, 2010.

Mayor

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ASSESSMENTS FOR STREET IMPROVEMENTS; AMENDING SECTIONS OF CHAPTER 7 OF THE EUGENE CODE, 1971, INCLUDING SECTION 7.175; ADDING A NEW SECTION 7.180 TO THAT CODE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.010 of the Eugene Code, 1971, is amended by adding the following definitions in alphabetical order to provide as follows:

7.010 **Definitions.** For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

Cul-de-sac. *A dead-end street intended for local traffic that terminates with a bulb or other turnaround for use by appropriate vehicles, including emergency vehicles.*

Residential Assessment Unit. *A unit of measure, for purposes of assessing residential property for street improvement under chapter 7 of this code, equivalent to the uniform benefit of a property developed with a single-family dwelling, duplex or triplex.*

Section 2. Section 7.170 of the Eugene Code, 1971, is amended to provide as follows:

7.170 **Local Improvements - Assessments - Computation.**

- (1) For a local improvement ordered by the council the total estimated cost or the total cost of the improvement shall be computed by the city engineer and shall include but not be limited to the costs of constructing the improvement, engineering, interest on warrants, advertising, and providing notice of assessments and overhead. [~~The city engineer shall apportion the total estimated cost or the total cost of the improvement in accordance with section 7.175.~~]
- (2) ***The total estimated cost or the total cost of all improvements shall be divided among the properties included in the local improvement district and the city in accordance with section 7.175. The total estimated cost or the total cost of street improvements shall be divided among the properties included in the local improvement district and the city in accordance with section 7.175 and 7.180.***
- (23) For purposes of assessing property under chapter 7 of this code, property shall be deemed to abut a local improvement, whether the local improvement is a sidewalk, street, or other local improvement, if the property physically touches (i.e. is directly adjacent to) a public way within which the local improvement is located.
- (4) ***For purposes of assessing property for street improvements under***

chapter 7 of this code, property shall be deemed to be served by a local improvement if, at the time of LID formation, the property:

- (a) Abuts the street being improved; or,*
- (b) Is located on a dead end street or cul-de-sac and is dependent upon the street being improved for access to the street system.*

Section 3. Section 7.175 of the Eugene Code, 1971, is amended by amending subsections (1) and (2); deleting subsections (3) through (5) and renumbering subsections (6) through (12) to subsections (3) through (9); and amending renumbered subsections (4) and (9) to provide as follows:

7.175 Local Improvements - Apportionment of Assessments.

- (1)** Whatever share of the total actual project costs of the local improvement is to be borne by the city and by sources of funds other than assessments shall be deducted from the total project costs before they are apportioned and assessed under this section. The city shall pay the costs of the following, provided funds are available and the project has appropriate priority:
 - (a) Components of the local improvement that will not be assessed pursuant to subsections (2) through ~~[(42)]~~ **(9)** of this section 7.175 **and subsections 7.180 (2) through (5)**;
 - (b) Street improvements and sidewalks within the intersection of public ways other than intersections of new streets within the boundaries of a new development;
 - (c) A portion of the street and alley improvements for a lot or parcel upon which one single family dwelling or duplex exists which is owned and occupied by low-moderate income person(s) and which property is adjacent to *an* ~~[street or]~~ **alley or served by a street** which is unimproved or improved with substandard improvements at the time the local improvement district is formed if the street or alley improvement is initiated by the council or by property owner petition.
 - (d) Features of storm sewers constructed as part of a street improvement project within existing developed areas which are in addition to those necessary to properly drain the surface of the street being improved and to provide water quality treatment to the runoff from the street surface;
 - (e) Other costs attributable to special conditions or to policies adopted prior to or at the time the council adopts the resolution forming the local improvement district.
- (2)** The assessments for individual parcels of real property shall be calculated and assessed as follows against the property specially benefitted by the local improvement:
 - (a) Special costs or features of the improvement that benefit a particular parcel or parcels in a manner peculiar to the parcel(s) shall, together with a share of the overhead for the improvement, be assessed separately against each benefitted parcel.
 - (b) The remainder of the **assessable** costs of the improvement shall be assessed **and apportioned** as described in subsections (3) through ~~[(42)]~~ **(9)** of this section **and section 7.180.**

- (c) Notwithstanding any provision in subsections (3) through [(12)] **(9)** of this section **and section 7.180**, the city engineer may accept an alternative means of assessments or other means of collecting funds for local improvements if:
 - 1. The alternative means is approved by all affected property owners; and
 - 2. The city engineer determines that the alternative means adequately protects the city's interest in recovering its costs.

~~[(3) Street construction assessments—General.—~~

- ~~(a) Assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in section 7.175(4) and (5) (including, but not limited to street structure of a thickness determined by the city engineer as provided in sections 7.175(4)(a) and 7.175(5)(a), lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins; piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.~~
- ~~(b) Except when special circumstances exist that are identified in the resolution creating an assessment district, assessments for street improvements generally shall be based on the number of linear feet of property to be assessed, as provided in sections 7.175(3)(d) and (e) and 7.175(5)(c), multiplied by the per-foot cost of the assessable components described in paragraph (a) of this subsection. The portion of the street pavement to be assessed against an individual parcel shall be based on the assessable widths identified in subsections 7.175(4)(b) and 7.175(5)(b). Where not all of the linear feet of a parcel abutting a street improvement are included in the assessment to be levied at the time the improvement is constructed, the parcel may be subject to a delayed equivalent assessment as provided in sections 7.175(3)(e) and (g), 7.175(4)(d) and 7.175(5)(d).~~
- ~~(c) For purposes of subsections 7.175(4) and (5), “development” means a structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to land designed, used or intended to serve such a structure or a business or other use whose employees or customers access the structure or business or other use from a street. “Developed parcel” means a parcel, or a group of parcels with development that functions as an integrated development, that at the time of substantial completion of the street improvement project has any development on it, except for ancillary structures on a parcel used exclusively for farm use. “Fully developed parcel” means a parcel that has development on it and that has no undeveloped portion that could be further partitioned or subdivided for purposes of additional development. “Partially developed parcel” means a parcel that has development on it but which has an undeveloped portion that could be further partitioned or subdivided in the future. “Vacant parcel” means a parcel that has no development on it.~~
- ~~(d) Vacant parcels less than one-half acre in size with residential zoning and fully developed parcels with a single family dwelling or duplex and residential zoning shall be assessed for the actual front footage abutting the improvement, except that no parcel shall be assessed for less than 50 feet of frontage or more than 100 feet of frontage.~~

- (e) ~~Partially developed parcels of one-half acre or larger with a single family dwelling or duplex in a single family or low density residential zone and having more than 100 feet of frontage abutting the improvement shall be assessed for 100 feet of frontage at the time of the improvement, and the remaining frontage shall be used to calculate an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d) and 7.407 of this code.~~
- (f) ~~Notwithstanding paragraphs (d) and (e) of this subsection and paragraph (b) of subsection 7.175(5), developed parcels used for a single family dwelling or a duplex in a single family or low density residential zone and the developed portions of partially developed parcels meeting the same description shall not be assessed for street improvements if they do not take primary access from the street being improved. Notwithstanding the foregoing sentence, if such a parcel abuts the street improvement and is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsections 7.175(4)(d) and 7.175(5)(d), even if the parcel does not take direct access from the street being improved. For purposes of this section, a parcel "takes primary access" from a street if the parcel abuts only that street or, in cases where a parcel abuts two or more streets, the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to take primary access from both streets.~~
- (g) ~~Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d), and 7.407 of this code.~~
- (h) ~~Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.~~
- (i) ~~Except as otherwise provided in section 7.175 of this code, a parcel shall be assessed for the actual full footage abutting the improvement.~~
- (4) ~~Local streets:~~**
 - (a) ~~Calculation of assessments for improvements to a local street shall be as provided in this subsection 7.175(4). As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended. In addition to the components listed in subsection 7.175(3)(a), assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of the street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.~~
 - (b) ~~A parcel abutting a local street shall be assessed for an improvement to a local street according to the zoning of the parcel as follows:~~

1. ~~— A parcel with single-family or low-density residential zoning shall be assessed for a maximum of 17 feet of width.~~
 2. ~~— A parcel with zoning other than single-family or low-density residential zoning shall be assessed for a maximum of 22 feet of width.~~
- (c) ~~— The cost for the assessable width shall be apportioned to each parcel on the basis of its front footage abutting the improvement, except where subsection 7.175(3)(d) or (e) of this code provides for assessment of less than the full frontage. Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for additional width or special features in accordance with the engineer's determination.~~
- (d) ~~— Concerning a parcel or a portion thereof for which paragraphs (e) or (g) of subsection 7.175(3) require no assessment at the time of the improvement:~~
1. ~~— A person who receives a permit to develop such a parcel after the improvement has been constructed shall pay an equivalent assessment based upon the abutting front footage that was not previously assessed, to be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:~~
 - A. ~~— A permit is issued authorizing construction of a new driveway access to the local street;~~
 - B. ~~— A permit is issued authorizing construction of a new street that connects the parcel to the local street;~~
 - C. ~~— Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or~~
 - D. ~~— Construction of a new structure capable of human occupancy.~~
 2. ~~— A person who receives a permit to develop such a parcel before improvements to the abutting street have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 of this code when the street improvements are constructed.~~
- (5) ~~— Arterial and collector streets:~~
- (a) ~~— Calculation of assessments for improvements to an arterial or collector street shall be as provided in this subsection 7.175(5). As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector" mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications. In addition to the components listed in subsection 7.175(3)(a), assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness~~

determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local street use.

~~(b) In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities). Parcels within a low-density residential zone shall be assessed according to the functional classification of the street, as follows:~~

- ~~1. Major arterial – no paving or drainage.~~
- ~~2. Minor arterial – 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.~~
- ~~3. Major collector – 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.~~
- ~~4. Neighborhood collector – 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.~~

~~(c) With the exception of within a low-density residential zone, developed and partially developed parcels within all zones shall be assessed for the full frontage abutting the street improvement and for 10 feet of the pavement.~~

~~(d) Developed and partially developed parcels with non-conforming uses within a residential zone shall be assessed for the full frontage abutting the street improvement and for 10 feet of pavement.~~

~~(e) Concerning a parcel or portion thereof for which paragraphs (e) or (g), of subsection 7.175(3) require no assessment, a person who receives a permit to develop such a parcel, whether before or after the improvement has been constructed, shall pay an equivalent assessment based upon the abutting front footage of the parcel that was not previously assessed, to be calculated, reviewed, and paid as provided in section 7.407 of this code before any of the following occurs:~~

- ~~1. A permit is issued authorizing construction of a new driveway access to the arterial or collector street;~~
- ~~2. A permit is issued authorizing connection of a new street that connects the parcel to the arterial or collector street;~~
- ~~3. Any partition, subdivision or development of the parcel regulated by chapter 9 of this code is approved; or~~
- ~~4. Construction of a new structure capable of human occupancy.]~~

(74) Sidewalk assessments. Parcels abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalk, based on the front footage of the parcel abutting the sidewalk. [The front footage shall be ascertained in the same manner as for street improvement assessments.] Where, however, the council finds that the topography makes it unfeasible to construct a sidewalk on both sides of the street, the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the parcels on the opposite side of the street from the sidewalk, on the basis of the front footage abutting or directly across the street from the sidewalk, or the costs may also be apportioned on the basis of the area of sidewalk or driveway apron or both abutting each parcel, whichever basis is determined to be more equitable by the council.

(129) Without repeating the notice required by section 7.185, prior to enactment of the ordinance levying the assessment required by section 7.190, the proposed

assessments for individual parcels of real property calculated under subsection[s] 7.175(2) and ~~[7.175(3)]~~ **section 7.180** may be adjusted by a written agreement between the affected owners and the city engineer provided:

- (a) No parcel's adjusted proposed assessment exceeds the assessed value of the parcel at the time of the agreement;
- (b) The proposed adjusted assessment for any parcel subject to subsections 7.160(2) and (3) remains within the limitations imposed under subsections 7.160(2) and (3); and
- (c) There is no increase in the city's share of project costs or in assessments to other parcels within the project whose owners were not a party to the agreement.

Section 4. Section 7.180 of the Eugene Code, 1971, is added to provide as follows:

7.180 **Local Improvements – Street Assessments.**

(1) Assessment of Served Properties

- (a) *Except as otherwise provided in this section 7.180, all residential and nonresidential parcels served by a street to be improved shall be assessed for the assessable street improvement components. The cost for the assessable street improvement components for each parcel served by the improvement shall be apportioned in accordance with section 7.175 and subsections 7.180(2) through (5).***
- (b) *Even if a parcel is not served by a street being improved, if a parcel is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsection 7.180(5). When a parcel is served by two or more streets, the parcel is served by a street when the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to be served by both streets.***

(2) Assessable Street Improvement Components

- (a) *Except as provided in section 7.175(1), assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in subsections 7.180(3) and 7.180(4) (including, but not limited to street structure of a thickness determined by the city engineer, lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins, piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.***
- (b) *Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for***

additional width or special features in accordance with the engineer's determination.

- (c) *Assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of a local street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.*
- (d) *Assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local street use. In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities).*

(3) Residential Properties

- (a) *For purposes of this section 7.180, "residential property" means a parcel with residential zoning that is either vacant or developed with a single family, duplex or multi-family structure.*
- (b) *A parcel served by a local street to be improved shall be assessed for a maximum of 17 feet of pavement width and associated drainage system. As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended.*
- (c) *A parcel served by an arterial or collector street to be improved shall be assessed according to the functional classification of the street, as follows:*
 - 1. *Major arterial - no paving or drainage.*
 - 2. *Minor arterial - 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*
 - 3. *Major collector - 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*
 - 4. *Neighborhood collector - 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*

As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector" mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications.

- (d) *Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for street improvements shall be based on the cost per Residential Assessment Unit (RAU). The cost per RAU shall be determined by*

dividing the total costs apportioned to the residential properties by the total number of RAUs within the local improvement district.

(e) Non-Vacant Parcels

- 1. For purposes of this subsection 7.180(3), a parcel, regardless of size, is non-vacant if it contains a single family, duplex, triplex or multi-family dwelling structure.*
- 2. Parcels with a single family, duplex or triplex shall be assessed the cost of one RAU.*
- 3. Parcels with more than three dwelling units shall be assessed the cost of .25 RAU per dwelling unit.*

(f) Vacant Parcels

- 1. For purposes of this section, "vacant parcel" means a parcel that is not a "non-vacant" parcel as defined in subsection 7.180(3)(e).*
- 2. Vacant parcels of less than one-half acre in low density or single-family residential zones shall be assessed for the minimum number of dwelling units required in the zone by multiplying the minimum required number of dwelling units for the zone by the cost per RAU.*
- 3. Vacant parcels of less than one-half acre in zones other than low density or single-family residential zones shall be assessed for the minimum number of dwelling units required in the zone by multiplying the minimum required number of dwelling units for the zone by the cost of .25 RAU.*
- 4. Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with subsection 7.180(5) and 7.407 of this code.*

(4) Non-Residential Properties

- (a) For purposes of this section 7.180, "non-residential property" means a parcel that is not a "residential parcel" as that term is defined in subsection 7.180(3)(a).*
- (b) A parcel served by a local street to be improved shall be assessed for a maximum of 22 feet of pavement. A parcel served by an arterial or collector street to be improved shall be assessed for a maximum of 10 feet of pavement width and associated drainage system. The street classifications shall have the meanings provided in subsection 7.180(3).*
- (c) Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for street improvements shall be based on the total area of the property to be assessed.*
- (d) Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with subsection 7.180(5) and 7.407 of this code. "Vacant parcel" means a parcel that has no structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to the land designed, used or intended to serve such a structure or*

a business or other use whose employees or customers access the structure or business or other use from a street.

(5) Equivalent Assessment

- (a) *For purposes of this subsection (5), the minimum required number of dwelling units shall be based on the minimum dwelling units per acre required for the zone.***
- (b) *The equivalent assessment for residential parcels in low density or single-family residential zones not assessed at the time of the street improvement shall be determined by multiplying the minimum required number of dwelling units for the zone by the cost per RAU.***
- (c) *The equivalent assessment for residential parcels in zones other than low density or single-family residential zones not assessed at the time of the street improvement shall be determined by multiplying the minimum required number of dwelling units by the cost of .25 RAU.***
- (d) *The equivalent assessment for non-residential parcels not assessed at the time of the street improvement shall be based on the total area of the property to be assessed.***
- (e) *Except as provided in subsection 7.180(5)(f), the equivalent assessment shall be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:***
 - 1. *A permit is issued authorizing construction of a new driveway access to the street;***
 - 2. *A permit is issued authorizing construction of a new street that connects the parcel to the street;***
 - 3. *Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or***
 - 4. *Construction of a new structure capable of human occupancy.***
- (f) *A person who receives a permit to develop a vacant parcel of one-half acre or more before improvements to a local street serving the parcel have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 and 7.180 of this code when the street improvements are constructed.***
- (g) *A person who receives a permit to develop a vacant parcel of one-half acre or more, whether before or after the improvements to an arterial or collector street serving the parcel have been constructed, shall pay an equivalent assessment in accordance with section 7.407 and subsection 7.180(5)(e).***
- (h) *Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.***

Section 5. Section 7.190 of the Eugene Code, 1971, is amended to provide as follows:

7.190 Local Improvements - Assessments - Levy and Notice Thereof.

- (1) The council by ordinance shall levy assessments on parcels of real property**

specially benefited by local improvements. Upon enactment of such an ordinance, the finance officer by first class mail shall give notice of the assessments to the owners of the assessed parcels. The notice shall state that each assessment may be paid in full, without interest, within ten days after the date of the assessment ordinance and that, if the assessment is not so paid, interest on the unpaid balance of the assessment will accrue as prescribed in the assessment ordinance until the assessment is paid, unless payment of the assessment is deferred ***in accordance with chapter 7 of this code***~~[-under section 7.200]~~. The notice shall also state that the assessment may be paid in installments according to the terms set forth in the assessment ordinance, and shall include an application for so paying the assessment.

- (2) Unless otherwise specified by this code or by assessment ordinance, reference in this code to making assessment or lien payments in installments shall mean paying the obligation in up to 119 monthly installments or twenty (20) semi-annual installments including principal and interest at the rate set under section 2.022 of this code.
- (3) In addition to any deferral, extension or modification of payments authorized by this chapter, an assessment may be modified, compromised or canceled as provided in section 2.582 of this code.

Section 6. Section 7.193 of the Eugene Code, 1971, is added to provide as follows:

7.193 Local Improvements – Deferral of Street Assessments.

- (1) ***To the extent a funding source is available from a public entity or any other source approved by the council at the time the project is initiated that will provide the city with sufficient funds to ensure no initial cost to the city or affected property owners for the construction of the local improvements, parcels with an owner occupied single family dwelling or an owner occupied duplex dwelling assessed for street improvements may defer payment of the assessment until sale or transfer of the parcel.***
- (2) ***The deferred assessment shall become a lien on the property. The lien shall accrue interest from the date it is levied until the deferral ends at a variable rate to be adjusted annually to reflect the city's costs in providing the funding source. When the deferral ends, payment of the assessment and accrued interest shall be made as provided in section 7.190.***
- (3) ***An assessment deferred pursuant to this section is not subject to the requirements and criteria set forth in section 7.195 – 7.220 of this code.***
- (4) ***Property owners deferring payment pursuant to this section are not eligible to participate in the Improvement Assistant Program.***
- (5) ***A deferral under this section shall terminate if:***
 - (a) ***The owner granted the deferral sells or transfers to any other party fee title or a possessory interest in the parcel to which the deferral pertains, except sales or transfers between persons related by blood, marriage or adoption; or,***
 - (b) ***Title to the parcel passes to another party by devise or intestate succession; or,***
 - (c) ***The owner granted the deferral ceases to occupy the dwelling.***

Section 7. Section 7.407 of the Eugene Code, 1971, is amended to provide as follows:

7.407 **Equivalent Street Assessment.**

- (1) In addition to any application or permit fee required by section 7.385, when the owner of real property is required to obtain an access connection permit to take access onto a street for which the city has given a credit under subsections 7.730(3) and 7.730(4) based upon the size of the street improvements that would be assessable under subsection 7.175(2)(b) **and section 7.180**, the owner shall pay to the finance officer an equivalent assessment and any other fees required by the city before taking access to the street. If the property has delinquent local improvement assessments against it, before issuing the access connection permit, all delinquent assessments shall be brought current. The equivalent assessment shall be determined by the city engineer, taking into account the city policies regarding size of streets assessed to benefitted property, based on the greater of the credit given under subsection 7.730(3) or (4) for the street to which access is proposed or the cost at the time of taking access of local improvement assessments for similar streets. As used in this subsection "cost" includes the expenses identified in section 7.170. Any person aggrieved by the city engineer's determination of the equivalent assessment may seek its review before a hearings official by following the procedures in section 2.021 of this code. The petitioner shall have the burden of proof in such review.
- (2) Nothing in this section shall prevent the city from creating a local improvement district for street improvements under section 7.175 upon a determination that an existing street improvement for which the city has given credit under subsection 7.730(3) and (4) is determined to specially benefit property that did not pay for the street improvements. Such assessments shall be calculated upon the greater of the amount of credit given by the city or the cost of constructing a similar street improvement at the time of the formation of the local improvement district. If a property has been given an equivalent assessment under subsection 7.407(1) it may not be assessed again for the same street improvements.
- (3) Except as otherwise provided in subsection ~~[7.175(4)(d)2]~~ **7.180(5)(f)**, equivalent assessments required by ~~subsection [7.175(3), (4) and (5)]~~ **7.180(5)** shall be paid at the time of development by the person who receives a permit to develop the parcel as described in ~~subsection [7.175(5)(d)]~~ **7.180(5)(e)**. The equivalent assessment shall be calculated by the city engineer ~~[based on the front footage abutting the improvement, on the factors listed in section 7.175(5)(b)]~~ **in accordance with section 7.180(5)**, if applicable, and the engineer's estimate of what the costs of the improvement would be if the improvement were constructed at the time of the development giving rise to the obligation to pay the equivalent assessment.
- (4) In lieu of paying the equivalent assessment at the time of issuance of the curb cut permit or upon the occurrence of one of the events described in ~~subsection [7.175(5)(d) 1-4]~~ **7.180(5)(e)**, except where the development involves creation of a subdivision, the person obligated to pay the equivalent assessment may execute and deliver to the finance officer an agreement to pay the equivalent assessment in installments. The finance officer may accept an agreement to pay only if it is consistent with the limits established under subsection 7.160(2) and (3). Equivalent assessments paid as provided in this subsection shall be charged interest on the unpaid principal balance as

provided in section 2.022 of this code and are hereby declared a lien against the real property and shall be docketed in the lien docket of the city and may be foreclosed in the same manner as other assessment liens.

- (5) *The equivalent assessment required by this section shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.***

Section 8. The Code references in subsections 6.610(4), 7.155(1) and 7.160(9) of the Eugene Code, 1971, are amended to reflect the amendments to Section 7.175 and the addition of Section 7.180 adopted by this Ordinance.

Section 9. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 10. Sections 37, 38 and 39 of the Eugene Charter of 2002 require that procedures for making, altering, vacating or abandoning a public improvement, and the procedures for levying, collecting and enforcing the payment of special assessments for public improvements be regulated by general ordinance; that any ordinance amending those procedures not take effect for a period of six months after the date of adoption, and then only if the ordinance is approved by an affirmative vote of six councilors. Pursuant to those Charter provisions, the amendments to Sections 7.010, 7.170, 7.175, 7.190, and 7.407. of the Eugene Code, 1971, and the addition of Sections 7.180 and 7.193 of that Code, as provided in this Ordinance, shall become effective six months from the date of its passage by an affirmative vote of two-thirds of the members of the City Council. However, the amendments to those sections shall not apply to an improvement authorized by the City Council prior to the effective date of this Ordinance.

Passed by the City Council this
_____ day of December, 2010.

Approved by the Mayor this
_____ day of December, 2010.

City Recorder

Mayor

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ASSESSMENTS FOR STREET IMPROVEMENTS; AMENDING SECTIONS OF CHAPTER 7 OF THE EUGENE CODE, 1971, INCLUDING SECTION 7.175; ADDING A NEW SECTION 7.180 TO THAT CODE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.010 of the Eugene Code, 1971, is amended by adding the following definitions in alphabetical order to provide as follows:

7.010 **Definitions.** For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

Cul-de-sac. *A dead-end street intended for local traffic that terminates with a bulb or other turnaround for use by appropriate vehicles, including emergency vehicles.*

Residential Assessment Unit. *A unit of measure, for purposes of assessing residential property for street improvement under chapter 7 of this code, equivalent to the uniform benefit of a property developed with a single-family dwelling, duplex or triplex.*

Section 2. Section 7.170 of the Eugene Code, 1971, is amended to provide as follows:

7.170 **Local Improvements - Assessments - Computation.**

(1) For a local improvement ordered by the council the total estimated cost or the total cost of the improvement shall be computed by the city engineer and shall include but not be limited to the costs of constructing the improvement, engineering, interest on warrants, advertising, and providing notice of assessments and overhead. [~~The city engineer shall apportion the total estimated cost or the total cost of the improvement in accordance with section 7.175.~~]

(2) ***The total estimated cost or the total cost of all improvements shall be divided among the properties included in the local improvement district and the city in accordance with section 7.175. The total estimated cost or the total cost of street improvements shall be divided among the properties included in the local improvement district and the city in accordance with section 7.175 and 7.180.***

(23) For purposes of assessing property under chapter 7 of this code, property shall be deemed to abut a local improvement, whether the local improvement is a sidewalk, street, or other local improvement, if the property physically touches (i.e. is directly adjacent to) a public way within which the local improvement is located.

- (4) *For purposes of assessing property for street improvements under chapter 7 of this code, property shall be deemed to be served by a local improvement if, at the time of LID formation, the property:*
- (a) *Abuts the street being improved; or,*
 - (b) *Is located on a dead end street or cul-de-sac and is dependent upon the street being improved for access to the street system.*

Section 3. Section 7.175 of the Eugene Code, 1971, is amended by amending subsections (1) and (2); deleting subsections (3) through (5) and renumbering subsections (6) through (12) to subsections (3) through (9); and amending renumbered subsections (4) and (9) to provide as follows:

7.175 Local Improvements - Apportionment of Assessments.

- (1) Whatever share of the total actual project costs of the local improvement is to be borne by the city and by sources of funds other than assessments shall be deducted from the total project costs before they are apportioned and assessed under this section. The city shall pay the costs of the following, provided funds are available and the project has appropriate priority:
- (a) Components of the local improvement that will not be assessed pursuant to subsections (2) through [(42)] **(9)** of this section 7.175 **and subsections 7.180 (2) through (5)**;
 - (b) Street improvements and sidewalks within the intersection of public ways other than intersections of new streets within the boundaries of a new development;
 - (c) A portion of the street and alley improvements for a lot or parcel upon which one single family dwelling or duplex exists which is owned and occupied by low-moderate income person(s) and which property is adjacent to *an [street or] alley or served by a street* which is unimproved or improved with substandard improvements at the time the local improvement district is formed if the street or alley improvement is initiated by the council or by property owner petition.
 - (d) Features of storm sewers constructed as part of a street improvement project within existing developed areas which are in addition to those necessary to properly drain the surface of the street being improved and to provide water quality treatment to the runoff from the street surface;
 - (e) Other costs attributable to special conditions or to policies adopted prior to or at the time the council adopts the resolution forming the local improvement district.
- (2) The assessments for individual parcels of real property shall be calculated and assessed as follows against the property specially benefitted by the local improvement:
- (a) Special costs or features of the improvement that benefit a particular parcel or parcels in a manner peculiar to the parcel(s) shall, together with a share of the overhead for the improvement, be assessed separately against each benefitted parcel.

- (b) The remainder of the **assessable** costs of the improvement shall be assessed **and apportioned** as described in subsections (3) through [(12)] **(9)** of this section **and section 7.180**.
- (c) Notwithstanding any provision in subsections (3) through [(12)] **(9)** of this section **and section 7.180**, the city engineer may accept an alternative means of assessments or other means of collecting funds for local improvements if:
 1. The alternative means is approved by all affected property owners; and
 2. The city engineer determines that the alternative means adequately protects the city's interest in recovering its costs.

~~[(3)] Street construction assessments—General.—~~

- ~~(a) Assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in section 7.175(4) and (5) (including, but not limited to street structure of a thickness determined by the city engineer as provided in sections 7.175(4)(a) and 7.175(5)(a), lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins; piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.~~
- ~~(b) Except when special circumstances exist that are identified in the resolution creating an assessment district, assessments for street improvements generally shall be based on the number of linear feet of property to be assessed, as provided in sections 7.175(3)(d) and (e) and 7.175(5)(c), multiplied by the per-foot cost of the assessable components described in paragraph (a) of this subsection. The portion of the street pavement to be assessed against an individual parcel shall be based on the assessable widths identified in subsections 7.175(4)(b) and 7.175(5)(b). Where not all of the linear feet of a parcel abutting a street improvement are included in the assessment to be levied at the time the improvement is constructed, the parcel may be subject to a delayed equivalent assessment as provided in sections 7.175(3)(e) and (g), 7.175(4)(d) and 7.175(5)(d).~~
- ~~(c) For purposes of subsections 7.175(4) and (5), “development” means a structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to land designed, used or intended to serve such a structure or a business or other use whose employees or customers access the structure or business or other use from a street. “Developed parcel” means a parcel, or a group of parcels with development that functions as an integrated development, that at the time of substantial completion of the street improvement project has any development on it, except for ancillary structures on a parcel used exclusively for farm use. “Fully developed parcel” means a parcel that has development on it and that has no undeveloped portion that could be further partitioned or subdivided for purposes of additional development. “Partially developed parcel” means a parcel that has development on it but which has an undeveloped portion that could be further partitioned or subdivided in the future. “Vacant parcel” means a parcel that has no development on it.~~
- ~~(d) Vacant parcels less than one-half acre in size with residential zoning and fully developed parcels with a single family dwelling or duplex and~~

- residential zoning shall be assessed for the actual front footage abutting the improvement, except that no parcel shall be assessed for less than 50 feet of frontage or more than 100 feet of frontage.
- (e) ~~Partially developed parcels of one-half acre or larger with a single family dwelling or duplex in a single family or low density residential zone and having more than 100 feet of frontage abutting the improvement shall be assessed for 100 feet of frontage at the time of the improvement, and the remaining frontage shall be used to calculate an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d) and 7.407 of this code.~~
 - (f) ~~Notwithstanding paragraphs (d) and (e) of this subsection and paragraph (b) of subsection 7.175(5), developed parcels used for a single family dwelling or a duplex in a single family or low density residential zone and the developed portions of partially developed parcels meeting the same description shall not be assessed for street improvements if they do not take primary access from the street being improved. Notwithstanding the foregoing sentence, if such a parcel abuts the street improvement and is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsections 7.175(4)(d) and 7.175(5)(d), even if the parcel does not take direct access from the street being improved. For purposes of this section, a parcel "takes primary access" from a street if the parcel abuts only that street or, in cases where a parcel abuts two or more streets, the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to take primary access from both streets.~~
 - (g) ~~Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d), and 7.407 of this code.~~
 - (h) ~~Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.~~
 - (i) ~~Except as otherwise provided in section 7.175 of this code, a parcel shall be assessed for the actual full footage abutting the improvement.~~
- (4) Local streets.**
- (a) ~~Calculation of assessments for improvements to a local street shall be as provided in this subsection 7.175(4). As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended. In addition to the components listed in subsection 7.175(3)(a), assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of the street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.~~

- (b) ~~A parcel abutting a local street shall be assessed for an improvement to a local street according to the zoning of the parcel as follows:

 - 1. ~~A parcel with single-family or low-density residential zoning shall be assessed for a maximum of 17 feet of width.~~
 - 2. ~~A parcel with zoning other than single-family or low-density residential zoning shall be assessed for a maximum of 22 feet of width.~~~~
- (c) ~~The cost for the assessable width shall be apportioned to each parcel on the basis of its front footage abutting the improvement, except where subsection 7.175(3)(d) or (e) of this code provides for assessment of less than the full frontage. Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for additional width or special features in accordance with the engineer's determination.~~
- (d) ~~Concerning a parcel or a portion thereof for which paragraphs (e) or (g) of subsection 7.175(3) require no assessment at the time of the improvement:

 - 1. ~~A person who receives a permit to develop such a parcel after the improvement has been constructed shall pay an equivalent assessment based upon the abutting front footage that was not previously assessed, to be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:

 - A. ~~A permit is issued authorizing construction of a new driveway access to the local street;~~
 - B. ~~A permit is issued authorizing construction of a new street that connects the parcel to the local street;~~
 - C. ~~Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or~~
 - D. ~~Construction of a new structure capable of human occupancy.~~~~
 - 2. ~~A person who receives a permit to develop such a parcel before improvements to the abutting street have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 of this code when the street improvements are constructed.~~~~
- (5) Arterial and collector streets.**
 - (a) ~~Calculation of assessments for improvements to an arterial or collector street shall be as provided in this subsection 7.175(5). As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector" mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications. In addition to the components listed in subsection 7.175(3)(a), assessable components of an arterial or collector street improvement may include a portion of the street trees planted as~~

part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local street use.

(b) In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities). Parcels within a low-density residential zone shall be assessed according to the functional classification of the street, as follows:

1. Major arterial – no paving or drainage.
2. Minor arterial – 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.
3. Major collector – 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.
4. Neighborhood collector – 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.

(c) With the exception of within a low-density residential zone, developed and partially developed parcels within all zones shall be assessed for the full frontage abutting the street improvement and for 10 feet of the pavement.

(d) Developed and partially developed parcels with non-conforming uses within a residential zone shall be assessed for the full frontage abutting the street improvement and for 10 feet of pavement.

(e) Concerning a parcel or portion thereof for which paragraphs (e) or (g), of subsection 7.175(3) require no assessment, a person who receives a permit to develop such a parcel, whether before or after the improvement has been constructed, shall pay an equivalent assessment based upon the abutting front footage of the parcel that was not previously assessed, to be calculated, reviewed, and paid as provided in section 7.407 of this code before any of the following occurs:

1. A permit is issued authorizing construction of a new driveway access to the arterial or collector street;
2. A permit is issued authorizing connection of a new street that connects the parcel to the arterial or collector street;
3. Any partition, subdivision or development of the parcel regulated by chapter 9 of this code is approved; or
4. Construction of a new structure capable of human occupancy.]

(74) Sidewalk assessments. Parcels abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalk, based on the front footage of the parcel abutting the sidewalk. [The front footage shall be ascertained in the same manner as for street improvement assessments.] Where, however, the council finds that the topography makes it unfeasible to construct a sidewalk on both sides of the street, the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the parcels on the opposite side of the street from the sidewalk, on the basis of the front footage abutting or directly across the street from the sidewalk, or the costs may also be apportioned on the basis of the area of sidewalk or driveway apron or both abutting each parcel, whichever basis is determined to be more equitable by the council.

(129) Without repeating the notice required by section 7.185, prior to enactment of the ordinance levying the assessment required by section 7.190, the proposed assessments for individual parcels of real property calculated under subsection[s] 7.175(2) and [7.175(3)] **section 7.180** may be adjusted by a written agreement between the affected owners and the city engineer provided:

- (a) No parcel's adjusted proposed assessment exceeds the assessed value of the parcel at the time of the agreement;
- (b) The proposed adjusted assessment for any parcel subject to subsections 7.160(2) and (3) remains within the limitations imposed under subsections 7.160(2) and (3); and
- (c) There is no increase in the city's share of project costs or in assessments to other parcels within the project whose owners were not a party to the agreement.

Section 4. Section 7.180 of the Eugene Code, 1971, is added to provide as follows:

7.180 **Local Improvements – Street Assessments.**

(1) Assessment of Served Properties

- (a) *Except as otherwise provided in this section 7.180, all residential and nonresidential parcels served by a street to be improved shall be assessed for the assessable street improvement components. The cost for the assessable street improvement components for each parcel served by the improvement shall be apportioned in accordance with section 7.175 and subsections 7.180(2) through (5).***
- (b) *Even if a parcel is not served by a street being improved, if a parcel is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsection 7.180(5). When a parcel is served by two or more streets, the parcel is served by a street when the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to be served by both streets.***

(2) Assessable Street Improvement Components

- (a) *Except as provided in section 7.175(1), assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in subsections 7.180(3) and 7.180(4) (including, but not limited to street structure of a thickness determined by the city engineer, lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins, piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.***
- (b) *Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or***

special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for additional width or special features in accordance with the engineer's determination.

- (c) Assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of a local street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.*
- (d) Assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local street use. In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities).*

(3) Residential Properties

- (a) For purposes of this section 7.180, "residential property" means a parcel with residential zoning that is either vacant or developed with a single family, duplex or multi-family structure.*
- (b) A parcel served by a local street to be improved shall be assessed for a maximum of 17 feet of pavement width and associated drainage system. As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended.*
- (c) A parcel served by an arterial or collector street to be improved shall be assessed according to the functional classification of the street, as follows:
 - 1. Major arterial - no paving or drainage.*
 - 2. Minor arterial - 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*
 - 3. Major collector - 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.*
 - 4. Neighborhood collector - 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.**

As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector" mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications.

- (d) Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for*

street improvements shall be based on the cost per Residential Assessment Unit (RAU). The cost per RAU shall be determined by dividing the total costs apportioned to the residential properties by the total number of RAUs within the local improvement district.

(e) Non-Vacant Parcels

1. *For purposes of this subsection 7.180(3), a parcel, regardless of size, is non-vacant if it contains a single family, duplex, triplex or multi-family dwelling structure.*
2. *Parcels with a single family, duplex or triplex shall be assessed the cost of one RAU.*
3. *Parcels with more than three dwelling units shall be assessed the cost of .25 RAU per dwelling unit.*

(f) Vacant Parcels

1. *For purposes of this section, "vacant parcel" means a parcel that is not a "non-vacant" parcel as defined in subsection 7.180(3)(e).*
2. *Vacant parcels of less than one-half acre in low density or single-family residential zones shall be assessed for the minimum number of dwelling units required in the zone by multiplying the minimum required number of dwelling units for the zone by the cost per RAU.*
3. *Vacant parcels of less than one-half acre in zones other than low density or single-family residential zones shall be assessed for the minimum number of dwelling units required in the zone by multiplying the minimum required number of dwelling units for the zone by the cost of .25 RAU.*
4. *Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with subsection 7.180(5) and 7.407 of this code.*

(4) Non-Residential Properties

- (a) *For purposes of this section 7.180, "non-residential property" means a parcel that is not a "residential parcel" as that term is defined in subsection 7.180(3)(a).*
- (b) *A parcel served by a local street to be improved shall be assessed for a maximum of 22 feet of pavement. A parcel served by an arterial or collector street to be improved shall be assessed for a maximum of 10 feet of pavement width and associated drainage system. The street classifications shall have the meanings provided in subsection 7.180(3).*
- (c) *Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for street improvements shall be based on the total area of the property multiplied by the area unit cost plus the total linear front footage multiplied by the front unit cost. The area unit cost is determined by dividing half of the apportioned assessable costs of the improvement by the total assessable area of all lots included in the improvement district. The frontage unit cost is determined by dividing half of the apportioned assessable costs of the*

- improvement by the total assessable frontage of all lots included in the improvement district.*
- (d) *Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with subsection 7.180(5) and 7.407 of this code. "Vacant parcel" means a parcel that has no structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to the land designed, used or intended to serve such a structure or a business or other use whose employees or customers access the structure or business or other use from a street.*
- (5) **Equivalent Assessment**
- (a) *For purposes of this subsection (5), the minimum required number of dwelling units shall be based on the minimum dwelling units per acre required for the zone.*
- (b) *The equivalent assessment for residential parcels in low density or single-family residential zones not assessed at the time of the street improvement shall be determined by multiplying the minimum required number of dwelling units for the zone by the cost per RAU.*
- (c) *The equivalent assessment for residential parcels in zones other than low density or single-family residential zones not assessed at the time of the street improvement shall be determined by multiplying the minimum required number of dwelling units by the cost of .25 RAU.*
- (d) *The equivalent assessment for non-residential parcels not assessed at the time of the street improvement shall be based on the total area of the property multiplied by the area and cost plus the total linear front footage multiplied by the front unit cost.*
- (e) *Except as provided in subsection 7.180(5)(f), the equivalent assessment shall be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:*
1. *A permit is issued authorizing construction of a new driveway access to the street;*
 2. *A permit is issued authorizing construction of a new street that connects the parcel to the street;*
 3. *Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or*
 4. *Construction of a new structure capable of human occupancy.*
- (f) *A person who receives a permit to develop a vacant parcel of one-half acre or more before improvements to a local street serving the parcel have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 and 7.180 of this code when the street improvements are constructed.*
- (g) *A person who receives a permit to develop a vacant parcel of one-half acre or more, whether before or after the improvements to an arterial or collector street serving the parcel have been*

- constructed, shall pay an equivalent assessment in accordance with section 7.407 and subsection 7.180(5)(e).*
- (h) *Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.*

Section 5. Section 7.190 of the Eugene Code, 1971, is amended to provide as follows:

7.190 Local Improvements - Assessments - Levy and Notice Thereof.

- (1) The council by ordinance shall levy assessments on parcels of real property specially benefited by local improvements. Upon enactment of such an ordinance, the finance officer by first class mail shall give notice of the assessments to the owners of the assessed parcels. The notice shall state that each assessment may be paid in full, without interest, within ten days after the date of the assessment ordinance and that, if the assessment is not so paid, interest on the unpaid balance of the assessment will accrue as prescribed in the assessment ordinance until the assessment is paid, unless payment of the assessment is deferred ***in accordance with chapter 7 of this code***~~[under section 7.200]~~. The notice shall also state that the assessment may be paid in installments according to the terms set forth in the assessment ordinance, and shall include an application for so paying the assessment.
- (2) Unless otherwise specified by this code or by assessment ordinance, reference in this code to making assessment or lien payments in installments shall mean paying the obligation in up to 119 monthly installments or twenty (20) semi-annual installments including principal and interest at the rate set under section 2.022 of this code.
- (3) In addition to any deferral, extension or modification of payments authorized by this chapter, an assessment may be modified, compromised or canceled as provided in section 2.582 of this code.

Section 6. Section 7.193 of the Eugene Code, 1971, is added to provide as follows:

7.193 Local Improvements – Deferral of Street Assessments.

- (1) ***To the extent a funding source is available from a public entity or any other source approved by the council at the time the project is initiated that will provide the city with sufficient funds to ensure no initial cost to the city or affected property owners for the construction of the local improvements, parcels with an owner occupied single family dwelling or an owner occupied duplex dwelling assessed for street improvements may defer payment of the assessment until sale or transfer of the parcel.***
- (2) ***The deferred assessment shall become a lien on the property. The lien shall accrue interest from the date it is levied until the deferral ends at a variable rate to be adjusted annually to reflect the city’s costs in providing the funding source. When the deferral ends, payment of the assessment and accrued interest shall be made as provided in section 7.190.***
- (3) ***An assessment deferred pursuant to this section is not subject to the***

- requirements and criteria set forth in section 7.195 – 7.220 of this code.*
- (4) *Property owners deferring payment pursuant to this section are not eligible to participate in the Improvement Assistant Program.*
 - (5) *A deferral under this section shall terminate if:*
 - (a) *The owner granted the deferral sells or transfers to any other party fee title or a possessory interest in the parcel to which the deferral pertains, except sales or transfers between persons related by blood, marriage or adoption; or,*
 - (b) *Title to the parcel passes to another party by devise or intestate succession; or,*
 - (c) *The owner granted the deferral ceases to occupy the dwelling.*

Section 7. Section 7.407 of the Eugene Code, 1971, is amended to provide as follows:

7.407 **Equivalent Street Assessment**

- (1) In addition to any application or permit fee required by section 7.385, when the owner of real property is required to obtain an access connection permit to take access onto a street for which the city has given a credit under subsections 7.730(3) and 7.730(4) based upon the size of the street improvements that would be assessable under subsection 7.175(2)(b) **and section 7.180**, the owner shall pay to the finance officer an equivalent assessment and any other fees required by the city before taking access to the street. If the property has delinquent local improvement assessments against it, before issuing the access connection permit, all delinquent assessments shall be brought current. The equivalent assessment shall be determined by the city engineer, taking into account the city policies regarding size of streets assessed to benefitted property, based on the greater of the credit given under subsection 7.730(3) or (4) for the street to which access is proposed or the cost at the time of taking access of local improvement assessments for similar streets. As used in this subsection "cost" includes the expenses identified in section 7.170. Any person aggrieved by the city engineer's determination of the equivalent assessment may seek its review before a hearings official by following the procedures in section 2.021 of this code. The petitioner shall have the burden of proof in such review.
- (2) Nothing in this section shall prevent the city from creating a local improvement district for street improvements under section 7.175 upon a determination that an existing street improvement for which the city has given credit under subsection 7.730(3) and (4) is determined to specially benefit property that did not pay for the street improvements. Such assessments shall be calculated upon the greater of the amount of credit given by the city or the cost of constructing a similar street improvement at the time of the formation of the local improvement district. If a property has been given an equivalent assessment under subsection 7.407(1) it may not be assessed again for the same street improvements.
- (3) Except as otherwise provided in subsection ~~[7.175(4)(d)2]~~ **7.180(5)(f)**, equivalent assessments required by ~~subsection [7.175(3), (4) and (5)]~~ **7.180(5)** shall be paid at the time of development by the person who receives a permit to develop the parcel as described in ~~subsection [7.175(5)(d)]~~ **7.180(5)(e)**. The equivalent assessment shall be calculated by the city engineer ~~[based on the front footage abutting the improvement, on the factors~~

~~listed in section 7.175(5)(b)]~~ **in accordance with section 7.180(5)**, if applicable, and the engineer's estimate of what the costs of the improvement would be if the improvement were constructed at the time of the development giving rise to the obligation to pay the equivalent assessment.

- (4) In lieu of paying the equivalent assessment at the time of issuance of the curb cut permit or upon the occurrence of one of the events described in **subsection [7.175(5)(d) 1-4] 7.180(5)(e)**, except where the development involves creation of a subdivision, the person obligated to pay the equivalent assessment may execute and deliver to the finance officer an agreement to pay the equivalent assessment in installments. The finance officer may accept an agreement to pay only if it is consistent with the limits established under subsection 7.160(2) and (3). Equivalent assessments paid as provided in this subsection shall be charged interest on the unpaid principal balance as provided in section 2.022 of this code and are hereby declared a lien against the real property and shall be docketed in the lien docket of the city and may be foreclosed in the same manner as other assessment liens.
- (5) ***The equivalent assessment required by this section shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.***

Section 8. The Code references in subsections 6.610(4), 7.155(1) and 7.160(9) of the Eugene Code, 1971, are amended to reflect the amendments to Section 7.175 and the addition of Section 7.180 adopted by this Ordinance.

Section 9. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 10. Sections 37, 38 and 39 of the Eugene Charter of 2002 require that procedures for making, altering, vacating or abandoning a public improvement, and the procedures for levying, collecting and enforcing the payment of special assessments for public improvements be regulated by general ordinance; that any ordinance amending those procedures not take effect for a period of six months after the date of adoption, and then only if the ordinance is approved by an affirmative vote of six councilors. Pursuant to those Charter provisions, the amendments to Sections 7.010, 7.170, 7.175, 7.190, and 7.407. of the Eugene Code, 1971, and the addition of Sections 7.180 and 7.193 of that Code, as provided in this Ordinance, shall become effective six months from the date of its passage by an affirmative vote

of two-thirds of the members of the City Council. However, the amendments to those sections shall not apply to an improvement authorized by the City Council prior to the effective date of this Ordinance.

Passed by the City Council this
_____ day of December, 2010.

City Recorder

Approved by the Mayor this
_____ day of December, 2010.

Mayor

Amendment to Ordinance Version C

7.180 (3) Residential Properties

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(e) Non-Vacant Parcels

1. For purposes of this subsection 7.180(3), a parcel, regardless of size, is non-vacant if it contains a single family, duplex, triplex or multi-family dwelling structure.
2. Parcels with a single family, duplex or triplex shall be assessed the cost of one RAU. ***Parcels with a single family, duplex, or triplex located on a previously improved dead end street or cul-de-sac shall be assessed the cost of .75 RAU.***
3. Parcels with more than three dwelling units shall be assessed the cost of .25 RAU per dwelling unit. ***Parcels with more than three dwelling units located on a previously improved dead end street or cul-de-sac shall be assessed the cost of .1875 RAU per dwelling unit.***

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7.180 (4) Non-Residential Properties

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- (c) Except when special circumstances exist that are identified in the resolution creating a local improvement district, assessments for street improvements shall be based on the total area of the property multiplied by the area unit cost plus the total linear front footage multiplied by the front unit cost. The area unit cost is determined by dividing half of the apportioned assessable costs of the improvement by the total assessable area of all lots included in the improvement district. The frontage unit cost is determined by dividing half of the apportioned assessable costs of the improvement by the total assessable frontage of all lots included in the improvement district. ***For parcels located on dead end streets or cul-de-sacs that have been previously improved, assessments for street improvements shall be based on three-quarters of the total area of the property multiplied by the area unit cost plus three-quarters of the total linear front footage multiplied by the front frontage unit cost.***

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