

ORDINANCE No. 190307

Amend Public Improvement Definitions to restore Responsible Engineer and amend incorrect citations within Public Improvement Definitions, Local Improvement District procedure and Property Owner Responsibility for Streets (Ordinance; amend Code Sections 17.04.010, 17.08.010 and 17.42.040)

The City of Portland ordains:

Section 1. The Council finds:

1. Technical clarifications were made to Code Chapter 17.08 with the passage of Ordinance No. 190132 on September 16, 2020, which was the first comprehensive amendment to local improvement district (LID) procedure since Council passage of Ordinance No. 177124 on December 11, 2002.
2. The Local Improvement District (LID) program is housed within the Portland Bureau of Transportation (PBOT) but is a Citywide program. LIDs have also been used to construct infrastructure improvements for:
 - a. The Portland Water Bureau (PWB) with the SW Quail Post Road LID being the most recent formed LID for which PWB was the Responsible Bureau with the passage of Ordinance No. 190199 on November 12, 2020. Similar to PBOT, PWB has a designated Chief Engineer and the role of Responsible Engineer.
 - b. The Bureau of Environmental Services (BES) with the Royal Highlands Phase II LID being the most recently formed LID for which BES was the Responsible Bureau with the passage of Ordinance No. 182650 on April 8, 2009. Similar to PBOT, BES has a designated Chief Engineer and the role of Responsible Engineer.
 - c. Portland Parks & Recreation (PP&R) with the Portland Open Space Sequence being the most recent formed LID for which PP&R was the Responsible Bureau with the passage of Ordinance No. 188165 on December 21, 2016. PP&R does not have a designated Chief Engineer nor a Responsible Engineer role.
3. There are currently 15 pending LIDs with a combined amount of \$73,330,093 in LID funding and \$25,382,189 in non-LID funding for a total portfolio value of \$98,712,282 as of January 13, 2021:
 - a. PBOT is the Responsible Bureau for the following pending LID projects which are currently formed but have not yet been assessed:
 - i. N Burlington Avenue & Edison Street LID

- ii. N Suttle Road LID
 - iii. NE 27th Avenue & Holland Street LID
 - iv. NE 46th Avenue & Bryant Street LID
 - v. NE 47th Avenue Phase I LID
 - vi. NE 55th-57th Avenues & Killingsworth St LID
 - vii. NE 97th Avenue Phase II LID
 - viii. NE Couch-Davis Street LID
 - ix. NW 20th Avenue LID
 - x. NW Front Avenue - Naito Parkway LID
 - xi. NW Park Avenue & Johnson / Kearney Streets LID
 - xii. SE 102nd Avenue & Woodstock Blvd. LID
 - xiii. SE 80th Avenue & Mill Street LID
 - xiv. SW 47th Avenue Phase I LID
- b. PWB is the Responsible Bureau for the pending SW Quail Post Road LID which is currently formed but has not yet been assessed.
4. The Code citation within Code Section 17.08.010 to “Responsible Engineer” established by Ordinance No. 177124 and retained by Ordinance No. 190132 became an incorrect citation with the passage of Ordinance No. 185397 on June 6, 2012 erroneously deleting the reference to Responsible Engineer.
 5. The City Engineer confirmed on September 24, 2020 that the Responsible Engineer continues as an engineering function performed within the Portland Bureau of Transportation subsequent to the passage of Ordinance No. 190132. The Responsible Engineer performs these day-to-day tasks in lieu of the City Engineer including for, but not limited to, local improvement district projects.
 6. The City Engineer has also confirmed with the Chief Engineer of the Bureau of Environmental Services (BES) and the Chief Engineer of the Portland Water Bureau (PWB) that BES and PWB have similar Responsible Engineer functions. Therefore, the Code reference to Responsible Engineer should appropriately be restored to Code Chapter 17.04, where it previously resided, in lieu of being restored within Code Chapter 17.08, which is specific to local improvement district procedure.
 7. The City Auditor’s Office identified the following additional incorrect Code citations on January 11, 2021 and on January 12, 2021:
 - a. Code Section 17.04.010 includes a citation to “Responsible Official” in previous Code Sections 17.04.035 and 17.04.036, which no longer exist and which were amended with the passage of Ordinance No. 185397 on June 6, 2012.

- b. Code Section 17.08.010 A.3 includes a citation to the “Bureau of Water Works,” which was renamed to the Portland Water Bureau with the passage of Ordinance No. 185032 on July 6, 2012.
 - c. Code Section 17.42.040 includes a citation to “street” in previous Code Section 17.04.050, which no longer exists and was amended with the passage of Ordinance No. 185397 on June 6, 2012.
8. These proposed Code changes are technical in nature and do not make any substantive nor policy changes to the Local Improvement District procedure nor to the operations or engineering functions, roles and responsibilities of PBOT, BES and PWB.

NOW, THEREFORE, the Council directs:

- a. Amend Section 17.04.010 Definitions as follows:

The following definitions apply to the entirety of Title 17. Additional section-specific definitions may be found in other sections.

A. – W. [No Changes]

X. **“Responsible Engineer”** as used in this title means the Engineer with the authority to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the Responsible Engineer. For the Portland Bureau of Transportation this shall be the City Engineer; for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services; and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau.

X.Y. **“Responsible Official”** means the Official with the authority to act as the official agent of the bureau or department or the lawfully appointed subordinate of the Responsible Official. For the Bureau of Transportation, this shall be the Director of the Bureau of Transportation as defined in this Section 17.04.036. For the Bureau of Environmental Services, this shall be the Director of the Bureau of Environmental Services as defined in this Section 17.04.035. For the Portland Water Bureau, this shall be the Director of the Portland Water Bureau as defined in this Section.

Y. - Z. renumbered to Z. - AA.

- b. Amend Section 17.08.010 Definitions and Scopes of Duties as follows:

A. ~~The “Responsible Bureau”~~ The “Responsible Bureau” for a local improvement is as follows:

1. The Bureau of Transportation is the Responsible Bureau for street and other transportation improvements;
2. The Bureau of Environmental Services is the Responsible Bureau for sanitary sewer, stormwater management and other environmental improvements;
3. ~~The Bureau of Water Works~~ Portland Water Bureau is the Responsible Bureau for water improvements; and
4. City Council will designate the Responsible Bureau for a local improvement that is not addressed by this section.

B. ~~“Local Improvement District Administrator”~~ “Local Improvement District Administrator” means the person designated by the Director of the Bureau of Transportation to administer the City’s local improvement district program.

C. [No Changes]

D. The Responsible Engineer as identified in ~~Section~~ Chapter 17.04.037 is responsible for:

1. – 6. [No Changes]

E. – F. [No Changes]

c. Amend Section 17.42.040 Definition as follows:

As used in this chapter, the term “street” is defined as provided in ~~Section~~ Chapter 17.04.050 of the City Code and includes any drainage facilities associated with the street, and any structures in the dedicated street area. It also includes the run-off from any street where no drainage facilities have been constructed.

Passed by the Council, March 3, 2021

Commissioner Jo Ann Hardesty
Prepared by: Andrew Aebi:cdb
Date Prepared: 1/14/2021

Mary Hull Caballero

Auditor of the City of Portland

By *Megan Lehman*

Deputy



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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Jo Ann Hardesty</p>	<p>CLERK USE: DATE FILED <u>February 16, 2021</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p>ACTION TAKEN: February 24, 2021 Passed to Second Reading March 3, 2021 at 9:30 am</p>
<p>Mayor—Finance & Administration - Wheeler</p>	
<p>Position 1/Utilities - Rubio</p>	
<p>Position 2/Works - Ryan</p>	
<p>Position 3/Affairs - Hardesty <i>Jo Ann Hardesty</i></p>	
<p>Position 4/Safety - Mapps</p>	
<p style="text-align: center;">BUREAU APPROVAL</p>	
<p>Bureau: PBOT Bureau Head: Christopher Warner <small>Digitally signed by Christopher Warner Date: 2021.02.01 10:31:10 -0800</small></p>	
<p>Prepared by: Andrew Aebi Date Prepared: 1/12/2021</p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>City Auditor Office Approval: DB required for Code Ordinances</p>	
<p>City Attorney Approval: Eric Shaffner <small>Digitally signed by Eric Shaffner Date: 2021.01.14 16:58:18 -0800</small> required for contract, code, easement, franchise, comp plan, charter</p>	
<p>Council Meeting Date February 24, 2021</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Rubio	✓	
2. Ryan	✓	
3. Hardesty	✓	
4. Mapps	✓	
Wheeler	✓	