

ORDINANCE NO O20-03

AN ORDINANCE AMENDING TITLE 12 CHAPTER 12.04 OF THE LAUREL MUNICIPAL CODE RELATING TO THE CITY'S STREET AND SIDEWALK CONSTRUCTION AND MAINTENANCE.

WHEREAS, the City Council desires to keep the Laurel Municipal Code current by modifying and updating chapters, sections and subsections to address situations and problems within the City and to remain in accordance with Montana law; and

WHEREAS, the City's Public Works Director and City Attorney prepared the amendments below to the Laurel Municipal Code to remain consistent and in accordance with the State of Montana's Laws adopted by the Legislature; and

WHEREAS, the City's Public Works Director and City Attorney prepared, reviewed, and recommends the following amendments to Title 12, Chapter 12.04 as noted herein as follows:

Chapter 12.04 - STREET AND SIDEWALK CONSTRUCTION AND MAINTENANCE

- 12.04.030 - Streets.
- 12.04.040 - Definitions.
- 12.04.050 - Creation and alteration of maintenance districts. District designation authority.
- 12.04.051 - Improvements within maintenance districts-District Work and Improvement Plan.
- 12.04.052 - Notice of District Work and Improvement Plan for improvements.
- 12.04.053 - Protest.
- 12.04.054 - Choice in manner of making assessments.
- 12.04.055-12.04.059 Reserved
- 12.04.060 - Resolution for assessment of costs for maintenance of existing districts.
- 12.04.061 - Notice of resolution for assessment.
- 12.04.062 - Hearing on resolution for assessment of costs.
- 12.04.063 - Assessment of costs of improvements and maintenance of improvements.
- 12.04.064 - Assessment of costs.
- 12.04.065-12.04.069- Reserved.
- 12.04.070 - Financial assistance options. Cost Assessment Levy Resolution.
- 12.04.080 - Water user entities exempt from special assessments.
- 12.04.090 - Reserved.

12.04.030 - Streets.

A. Supervision. All maintenance and repairs of public streets, alleys, sidewalks and other public ways shall be under the supervision of the ~~city engineer~~Public Works Director. He/she shall ~~be charged with the enforcement of~~all ordinances and provisions relating to such public places (except traffic ordinances) ~~and is authorized to enforce such ordinances.~~

B. Construction. It is unlawful to construct or lay any pavement on any public street, sidewalk, alley or other public way, or to repair the same, without having first secured a permit therefor. Applications for such permits shall be made to the city clerk-treasurer, and approved by the ~~city engineer~~Public Works Director, and shall state the location of the intended pavement or repair, the extent thereof, and the person

or firm who is to do the actual construction work. No such permit shall be issued except where the work will conform to the ordinances of the city.

C.      Engineer Plans.

1. Each applicant for construction or reconstruction of any public street, alley or other public way, shall file with the ~~city engineer~~Public Works Director engineering plans and specifications prepared by an engineer certified by the state. No permit shall be issued until the engineering plans and specifications are approved by the ~~city engineer~~Public Works Director.

2. ~~The city engineer or any~~A certified engineer may prepare the engineering plans and specifications for construction or reconstruction of any public street. Engineering plans and specifications preparation costs ~~of by~~ the city engineer shall be paid by the applicant. The engineering plans and specifications preparation costs ~~to shall~~ be based on the reasonable, customary charges for ~~such~~similar services.

D.      Inspection. All street improvements shall be inspected during the course of construction by an inspector appointed by the ~~city engineer~~Public Works Director, salaries and other costs in connection with such inspections ~~shall to be~~ paid by the applicant, and such costs ~~to shall~~ be based on the reasonable, customary charges for ~~such~~similar services.

E.      Bond. Each contractor for construction or reconstruction of any public street shall file a bond in the amount equal to the estimated cost of construction of the improvement and ~~conditioned to~~ indemnify the city for any loss or damage resulting from the work undertaken or the manner of doing the same.

F.      Specifications. All street and sidewalk pavements shall be made in conformity with specifications laid down or approved from time to time by resolution of the city council.

(Ord. 97-2 § 4 (part), 1997; prior code § 11.32.030)

(Ord. No. O12-07, 1-15-13)

Editor's note— Formerly numbered as § 12.04.020.

12.04.040 - Definitions.

"Improvements" as used in this section includes but is not limited to the installation of traffic signs, new curb and gutter construction, narrowing, ~~and~~ widening and rebuilding of existing streets.

"Maintenance" as used in this section includes but is not limited to sprinkling, graveling, oiling, chip sealing, seal coating, overlaying, treating, general cleaning, sweeping, flushing, snow removal, leaf and debris removal, the operation, maintenance and repair of traffic signal systems, the repair of traffic signs, the replacement and maintenance of pavement markings, ~~and~~ curb and gutter repair, and minor sidewalk repair that includes cracking, chipping, sinking, and replacement of not more than 6 feet of sidewalk in any 100 foot portion of sidewalk. Maintenance in the districts may be done by contract or by forces employed by the city or by both, in a manner determined by the city council.

(Ord. 04-2 (part), 2004)

12.04.050 - District designation authority Creation and alteration of maintenance districts.

A resolution shall be adopted dividing the whole or any part of the city or town into maintenance districts, to be known and designated by number. The resolution shall plainly define the boundaries of the district or districts and describe the streets, alleys, and public places or any part thereof constituting the district or districts. The adoption of this section has no effect on any existing maintenance districts created previous to this amendment. When defined, maintenance districts may not be changed during the same calendar year but may be changed by resolution in any succeeding year. Whenever the city council designates a portion of the city as a street maintenance district, the streets, avenues and alleys may be maintained and/or improved for such time and in such manner as the city council may direct under the supervision of the public works director.

(Ord. 04-2 (part), 2004)

12.04.051 - Improvements within maintenance districts-District Work and Improvement Plan.

A. The city may prepare and improve streets, avenues, and alleys within the maintenance districts so that the maintenance will be of a durable and continuing benefit. The city council shall provide, pursuant to this ordinance, a written plan that includes the method or methods of doing the work and improvements "District Work and Improvement Plan." For the purposes of this section, "improvements" includes but is not limited to the installation of traffic signs, new curb and gutter construction, and widening of existing streets.

B. The city is authorized to maintain the work and improvements made under this section.

C. At least 12 days must elapse between the day on which the proposed District Work and Improvement Plan is introduced and the day on which final action on such plan is taken.

12.04.052 - Notice of District Work and Improvement Plan for improvements.

The city clerk must give notice of the introduction of the proposed District Work and Improvement Plan and of the time it will be up for final adoption. The notice must be published as provided in MCA 7-1-4127

12.04.053 - Protest.

No further action shall be taken upon the proposed district for 1 year if a written protest against passage of the proposed District Work and Improvement Plan is filed by:

A. owners of property within the proposed maintenance district having a taxable valuation, when aggregated, representing not less than 50% of the total taxable valuation of property within the district;

B. not less than 50% of the owners of property within the district; or

C. owners of property within the proposed maintenance district having projected assessments, when aggregated, representing not less than 50% of the total projected assessments for property within the district.

12.04.054 - Choice in manner of making assessments.

The assessments for the costs and expenses of maintaining streets, alleys, and public places shall be made against all of the property embraced within each maintenance district by one of the methods provided in MCA 7-12-4422.

12.04.055 through 12.04.059 Reserved.

12.04.070-060 - Cost—Assessment—Levy—Resolution. Resolution for assessment of costs for maintenance of existing districts.—

Not later than the second Monday in August of each year the public works director shall estimate the annual maintenance and/or improvement cost and the city council shall pass and finally adopt a resolution levying and assessing all the property within the street maintenance district with an amount equal to not less than seventy-five percent of the entire cost of the work.

A. With the consultation and advice of the Public Works Director, the city council shall estimate, as near as practicable, the cost of maintenance in each established district annually, not later than the second Monday in August. The council shall pass and finally adopt a resolution specifying the district assessment option and levying and assessing all the property within the several districts with an amount equal to not less than 75% of the entire cost of said work.

B. The resolution levying the assessment to defray the cost of maintenance shall contain or refer to a list in which shall be described the lot or parcel of land assessed, with the name of the owner thereof if known, and the amount levied thereon set opposite.

C. Such resolution shall be kept on file in the office of the city clerk.  
(Ord. 04-2 (part), 2004)

12.04.061 - Notice of resolution for assessment.

A. A notice, signed by the city clerk, stating that the resolution levying a special assessment or changing the method of assessment to defray the cost of maintenance in the district or districts is on file in the city clerk's office and subject to inspection, must be published as provided in MCA 7-1-4127.

B. The notice must state the time and place at which objections to the final adoption of the resolution will be heard by the council and must contain a statement setting out the method of assessment being proposed for adoption or the change in the method of assessment that is being proposed for adoption. The time for the hearing must be at least 5 days after the final publication of the notice.

12.04.062 - Hearing on resolution for assessment of costs.

A. At the time so set, the council shall meet and hear all objections which may be made to such assessment or any part thereof and may adjourn from time to time for that purpose and may by resolution modify such assessment in whole or in part.

B. A copy of the resolution, certified by the city clerk, must be delivered to the financial officer, and the assessments shall be placed upon the tax roll and collected in the same manner as other taxes.

12.04.063 - Assessment of costs of improvements and maintenance of improvements.

The city is authorized to assess the cost of the work, improvements, and maintenance authorized by 7-12-4405 against the property in maintenance districts in the manner and as provided in 7-12-4421 and 7-12-4422 to meet the payments required to be made each year.

12.04.060-064 - ~~Cost~~ Assessment of costs.

The cost assessed for maintaining and/or improving streets, avenues and alleys shall be charged to the property bordering on the streets and avenues so maintained by one or a combination of the following methods: each lot or parcel of land bearing its share of the cost according to the part of the whole cost which its area bears to the area of the entire district; or, by that part of the whole cost which each lot or parcel's street frontage bears to the street frontage of the entire district; or, if the city council determines that the benefits derived from the maintenance by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the assessable area of the lot or parcel; or, each lot or parcel of land, including the improvements thereon, may be assessed for that part of the cost of the district which its taxable valuation bears to the total taxable valuation of the property of the district. The assessment hereunder shall be certified by the city clerk-treasurer, to be extended on the tax roll in the same manner as other special assessments.

A. For the purposes of this section, "assessable area" means the portion of a lot or parcel of land that is benefited by the maintenance district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.

B. The city council shall assess the percentage of the cost of maintenance established in MCA 7-12-4425 against the entire district as follows:

(1) each lot or parcel of land within the district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire district, exclusive of streets, avenues, alleys, and public places;

(2) each lot or parcel of land within the district abutting upon a street upon which maintenance is done may be assessed for that part of the cost that its street frontage bears to the street frontage of the entire district;

(3) if the city council determines that the benefits derived from the maintenance by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the assessable area of the lot or parcel;

(4) each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the district that its taxable valuation bears to the total taxable valuation of the property of the district;

(5) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification;

(6) any other assessment method provided in MCA 7-11-1024 may be used; or

(7) any combination of the assessment options provided in subsections B(1) through B(7) may be used for the district as a whole or for any lot or parcel within the district.

(Ord. 04-2 (part), 2004)

12.04.065-12.04.069- Reserved.

12.04.070 - Financial assistance options.

A. The city is authorized to:

(1) enter into suitable agreements with the United States of America, the State of Montana, or a building and loan association, savings and loan association, bank, or credit union that is a regulated lender as defined in MCA 31-1-111 for loans of money and for receiving financial assistance to do the work and improvements contemplated by MCA 7-12-4405; and

(2) provide for the repayment of the loans by yearly payments from funds derived from districts created under this Chapter, apportioned over a period of time not exceeding 20 years.

12.04.080 - Water user entities exempt from special assessments.

Rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, equipment, machinery, motor vehicles, and other personal property owned by a nonprofit water company, water users' association, irrigation company, canal company, ditch company, reservoir company, or similar nonprofit water user entity are exempt from every special assessment imposed by any improvement or maintenance district created under this Chapter.

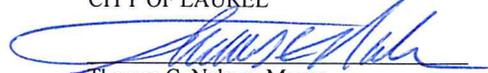
This Ordinance shall become effective thirty (30) days after final passage by the City Council and approved by the Mayor.

Introduced and passed on first reading at a regular meeting of the City Council on August 11, 2020, by Council Member Sparks.

PASSED and ADOPTED by the Laurel City Council on second reading this 25<sup>th</sup> day of August 2020, upon motion of Council Member Nelson.

APPROVED BY THE MAYOR this 25<sup>th</sup> day of August 2020.

CITY OF LAUREL



Thomas C. Nelson, Mayor

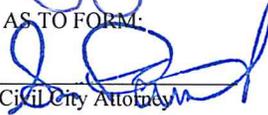
ATTEST:



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Bethany Langve, Clerk-Treasurer

APPROVED AS TO FORM:



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Sam Painter, Civil City Attorney