Sections: (Continued)

3.04.280 Guaranty fund--Tax levy for payment of warrants.
3.04.290 Guaranty fund--City to acquire subrogation rights.
3.04.300 Nonliability of city.

3.04.010 Purpose. The purpose of this chapter is to initiate procedures and outlines for establishing a local utility district for improvements of streets, water or any other improvement necessary within the city limits. (Ord. 1337 §1, 1980).

3.04.020 Petition for improvements--Procedure. A. Whenever the city council provides for making local improvements and for paying by levying and collecting special assessments on property specially benefited, the proceedings therefor shall be in accordance with the provisions of the ordinance codified in this section and in Sections 3.04.030 through 3.04.080 and the provisions of an act of the legislature of the state of Washington entitled "An act relating to local improvements in cities and towns repealing certain acts and parts of acts," approved March 17, 1911, so far as applicable, and acts and ordinances amendatory thereof, and the improvements may be initiated by petition of the property owners, or by resolution.

B. The city engineer is named as the officer to ascertain the truth of any petition filed for any local improvement and all resolutions and petitions initiating any local improvements shall be referred to the city engineer and it shall be his duty to make all estimates, diagrams, plans, and specifications, and other data, and submit the same to the city council prior to the hearing of any resolution, and at such other times as may be required, and to supervise the work of all local improvements, and as soon as possible after the taking of effect of any ordinance ordering any local improvement, and after the cost and expense thereof can be determined, the city engineer shall make out an assessment roll and certify the same to the city council, which assessment roll shall contain the description of each lot, tract or parcel of land or other property to be assessed, the amount to be charged, levied or assessed against the same, and the name of the owner of the same if known. The city council shall, after the notice by the city clerk-treasurer, equalize by ordinance, confirm and levy such assessment. (Ord. 1337 §2, 1980).

3.04.030 Vote required for approval. No ordinance relating to local improvements shall be considered passed unless the same has received the affirmative vote of at least three members of the city council; provided, that unless a petition for an improvement is presented, the improvement shall not be ordered except by ordinance passed by the affirmative vote of at least four members of the city council at a regular meeting. (Ord. 1561 §4, 1998, Ord. 1337 §3, 1980).

3.04.040 Petition--Recordation--Replacement when lost.

A. Whenever the city council passes an ordinance ordering any improvement, and such improvement is to be paid for in whole or in part by special assessment upon the property specially benefited, the city clerk-treasurer shall forthwith record in a book to be kept for that purpose the petition presented by the property owners to the city council, together with all endorsements and other entries contained thereon and the names in full of all the petitioners; the book shall be endorsed "Record of Petitions for Local Improvements," and shall be properly indexed so as to indicate the pages on which the petition for each improvement can be found and shall remain in the office of the city clerk-treasurer.

B. If any such petition for any improvement is lost, destroyed, concealed, mislaid or for any reason is not in the proper place in the city clerk-treasurer's office, the record of such petition in the book designated in subsection A of this section, or a copy thereof certified by the city clerk-treasurer, shall be received and treated for all purposes as of equal force and effect as the original petition. (Ord. 1337 §4, 1980).

3.04.050 Contract--Notice--Bidding requirements. Unless the improvement is made by the city, contract therefor shall be let upon competitive bidding after notice is published in the official newspaper doing the city printing for a period of at least two consecutive issues. The notice shall specify that all bids shall be accompanied by a certified check payable to the order of the city clerk-treasurer in a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such a check; the notice shall also provide that the bidder shall, within ten days after the acceptance of his bid by the city council, enter into contract required by the city and furnish the bond required by the city as security on the contract, and the certified check shall be retained by the city clerk-treasurer until the required bond has been furnished and the contract has been entered into, and shall be forfeited to the city if the contract is not entered into and the bond is not furnished within the time specified in this section, absolutely and without order of the city council or any declaration of forfeiture. (Ord. 1337 §5, 1980).

3.04.060 Contract--Payment of laborers and materials--cost estimates.

A. In letting all contracts for public improvements, the city council may provide therein that at least ten percent of the amount due the contractor on estimates shall be retained to secure the payment of laborers who have performed work thereon, and material men who have furnished material therefor, and such laborers and material men shall, for thirty days after their work has been completed, have a lien on the ten percent so reserved for labor done and materials furnished, which lien shall be senior to all other liens, whether by judgement, attachment, or contract, and no improvement shall be deemed completed until a majority of the city council shall have signed and filed with the clerk-treasurer a declaration to that effect.

B. During the time allowed in the contract, the city clerk-treasurer shall on the last day of each month issue an estimate of the amount of work completed during the month by the contractor, but shall after the date set for completion of the contract, furnish no estimates other than the final estimate issued after the completion of the work.

C. The final estimate issued by the city clerk-treasurer shall include, in addition to a statement of the amount of money expended for abstracts, advertising and engineering prior to the date set for the completion of the contract.

D. All engineering expense incurred after the time fixed in the contract for its completion shall be borne by the contractor as a penalty for failure to complete the work within the specified time. (Ord. 1561 §4, 1998, Ord. 1337 §6, 1980).

3.04.070 Bids--Acceptance or rejection. At the time and place named, the bids shall be publicly opened and read. No bid shall be rejected for informality, but shall be received if it can be understood what is meant thereby. The city council shall proceed to determine the lowest bidder, and may let such contract to such bidder, or if in its opinion all bids are too high, it may reject all of them and readvertise, or may proceed to do the work under its own supervision by "days work" and in such case, all checks shall be returned to the bidders by the city clerk-treasurer; but, if the contract is let, then, and in such case, all checks shall be returned to the bidders except that of the bidder whose bid is accepted, which shall be retained until the contract is entered into for making such bid, and the duly approved and accepted bond therefor is filed in the office of the city clerk-treasurer. If the bidder fails to enter into such contract in accordance with his bid within ten days from the date at which he is notified that he is the successful bidder, the clerk-treasurer shall stamp across the face of the certified check "Forfeited to the city of

Kettle Falls" and shall deposit it in the city treasury to the credit of the local improvement fund, and the city council may readvertise for proposals for such work, and neither the clerk-treasurer nor the city council shall have the power to remit such forfeiture. (Ord. 1337 §7, 1980).

3.04.080 Assessment roll. A. Within twenty days after the council awards a contract for any local improvement authorized by ordinance of the city council, or determines that such local improvement shall be done by the city itself (except as the time for the filing of the roll may be extended by the city council), the city engineer shall file with the city clerk-treasurer an assessment roll prepared in duplicate which shall contain the information as required by Section 3.04.020. In no case shall a mistake in the naming of the owner be fatal when the description of the property is correct.

B. The city council, upon receipt of such assessment roll, shall fix a date for hearing thereon, and direct the clerk-treasurer to give notice of such hearing, and the time and place thereof. Such notice shall be published at least twice in the official newspaper; provided, that at least fifteen days must elapse between the date of the last publication and the date fixed for such hearing.

C. At the time fixed for such hearing, the city council shall sit as a board of equalization, and shall have certified to them a statement of the total charges against the district, and shall adjust the roll in conformity thereto.

D. The ordinance confirming any assessment roll shall levy and assess against each lot, tract, parcel of land, or other property appearing on such roll the amount charged against the same; upon the enactment of such ordinance, a duplicate of the assessment roll shall be delivered to the clerk-treasurer for collection and, upon receipt thereof, the city clerk-treasurer shall publish notice in the official newspaper for two consecutive weekly issues that the roll is in his/her hands for collection, and any assessment thereon or portion thereof may be paid at any time within thirty days from the date of the first publication without penalty, interest or costs; after the thirty days, such assessment shall be deemed delinquent and thereafter shall bear interest at the rate of twelve percent per year, and in addition there shall be added a penalty of five percent and the city clerk-treasurer shall forthwith make out and certify to the county treasurer a list of all delinquent assessments, which, with the interest and penalty thereof, shall be placed on the general tax roll of the county and collected in all respects as general taxes. (Ord. 1337 §8, 1980).

3.04.090 Amount of cost borne by city. Every ordinance ordering any improvement provided for in Sections 3.04.020 through 3.04.080 shall declare what, if any, portion or proportionate amount of such cost and expense shall be borne by the city out of any of its general funds, and shall direct that the remainder of such cost and expense be assessed against the property within the district in the manner provided by the law. (Ord. 1337 §9, 1980).

3.04.100 Items included in cost. In making an estimate of the cost and expense of any improvement as provided in this chapter, the city council shall include therein the estimated cost and expense of the engineering and surveying necessary for the improvement to be done by and under the direction of the city clerk-treasurer and also the cost of ascertaining the ownership of the lots and parcels of land included in the assessment district and the cost of advertising and publishing all notices required to be published. (Ord. 1561 §4, 1998, Ord. 1337 §10, 1980).

3.04.110 Mode of payment. The modes of making payment for such portion of the cost and expense of any improvement provided for in the ordinance codified in Sections 3.04.020 through 3.04.080, as shall be payable by special assessments, are immediate payment and payment by bonds. The mode adopted shall be the mode petitioned for in case improvement shall be made upon petition, otherwise the mode shall be the one which the council shall designate in an ordinance ordering the improvement. (Ord. 1337 §11, 1980).

3.04.120 Immediate payment. Whenever the cost and expense of any improvement is payable by mode of immediate payment, the city clerk-treasurer shall, upon receipt of such assessment roll, publish a notice in the newspaper doing the city printing for two consecutive weekly issues that the roll is in his/her hands for collection, and that any assessment thereon or any portion of any such assessment may be paid at any time within thirty days from the date of the first publication of the notice without penalty, interest or costs, and that unless payment be made within such time assessment or unpaid portion thereof will become delinquent. Upon delinquency, a penalty of five percent shall attach to and become a part of all such assessments. Delinquent assessments shall bear interest at the rate of twelve percent per annum until paid, and a list of all such delinquent assessments, with the interest and penalty thereof, shall be placed in the general tax rolls of the county, and may be collected in all respects as general taxes, and they may, in the discretion of the city council be forthwith collected, and the lien thereof be enforced in the

manner provided by law and the ordinances of the city. (Ord. 1337 §12, 1980).

3.04.130 Payment by bonds. Whenever the cost and expense of any improvement is payable by the mode of payment by bonds, the whole or any portion of any assessment levied on account of such improvement may be paid, without penalty or interest, during the first thirty days following the date of the first publication of a notice by the city clerk-treasurer, and such assessment and assessment roll is in his/her hands for collection, and the unpaid balance, if any, may be paid in equal installments, the number of which shall equal the number of years which the bonds to pay for the improvement shall run; or the lien of any assessment may be discharged at any time after the first thirty days by paying the entire unpaid portion thereof with all penalties and costs attaching, together with all interest thereon to date of delinquency of the installment thereof next falling due. The first installment shall become due and payable during the thirty-day period succeeding a date one year after the date of the first publication of the notice, and annually thereafter. Each succeeding installment shall become due and payable in like manner if the whole or any portion of any assessment remains unpaid after the first thirty-day period provided for in this section. Interest upon the whole unpaid sum shall be charged at the rate fixed in the ordinance providing for such improvement, and each year thereafter one of the installments, together with the interest due upon the whole of the unpaid balance, shall be collected. Any installment not paid prior to the expiration of the thirty-day period during which such installment is due and payable shall thereupon become delinquent. All delinquent installments shall, until paid, be subject to a charge for interest at the bond rate and to an additional charge of five percent penalty, levied upon both principal and interest due on such installment or installments, and after the expiration of the thirty days after the date of the first publication of the clerk-treasurer's notice referred to in this section, the city clerk-treasurer shall report to the city council the total amount of the assessment unpaid, whereupon the city council shall issue bonds on the local improvement district established by the ordinance providing for such improvement in an amount equal to the amount remaining unpaid on such assessment roll, but the bonds shall not be issued prior to twenty days after the expiration of the thirty days. (Ord. 1337 §13, 1980).

3.04.140 Notice of assessments becoming due and payable. In all cases of assessments or installments thereof becoming due and payable, the city clerk-treasurer shall mail a copy of the notice required to be published to the owner of the

property assessed when the post office address of the owner is known, but failure to mail the same shall not be fatal when publication is made. (Ord. 1337 §14, 1980).

3.04.150 Bond--Form. All bonds issued in pursuance of the provisions of the ordinance codified in Sections 3.04.020 through 3.04.080 shall be in substantially the following form:

"City of Kettle Falls

"No. _____ $ _____

"Local improvement Bond
District No. _____

"The City of Kettle Falls, a municipal corporation of the State of Washington, hereby promises to pay to _____ _____ or bearer, _____ Dollars lawful money of the United States, with interest thereon from date at the rate of _____ percent per annum, payable _____ _____ annually, out of the fund established by Ordinance No. _____ of said city, and known as local improvement fund, district No. _____ and not otherwise, both principal and interest payable at the office of the city clerk-treasurer of said city.

"A coupon is hereto attached for each installment of interest to accrue hereon, and said interest shall be paid only upon presentation and surrender of such coupon to the city clerk-treasurer; but in case this bond is called for payment before its maturity, each and every coupon representing interest not accrued, at the time this bond is payable under such a call, shall be void.

"This bond is payable on or before the _____ day of _____ 19__, and is subject to call by the city clerk-treasurer of said city whenever there shall be sufficient money in said local improvement fund, district No. _____ to pay for same, and all unpaid bonds of the series of which this bond is one, which is prior to this bond in numerical order, over and above an amount sufficient for the payment of interest on all unpaid bonds of said series.

"The city council of said city as agent of said local improvement fund, district No. _____, established by said local improvement district No. _____, the bond, or proceeds thereof, to be applied in part payment of so much of the cost and expense of the improvement of those portions of said city, as is created by local improvement district No. _____ and provided for under said Ordinance No. _____, as levied and assessed against the property included in said local improvement district No. _____ and benefited by

said improvement, and the said local improvement fund, district No. _____ has been created by Ordinance No. _____ for said purpose, and the holder or holders of this bond shall look only to said fund for payment of either the principal or interest of this bond.

"The call for payment of this bond or any bond of the series of which this is one, shall be made by the city clerk-treasurer by publishing the same in the city official newspaper of said city, and when such call is made for the payment of this bond, it will be paid on the day the next interest coupon hereon shall become due after said call and upon said day interest upon this bond shall cease.

"This bond is one of a series of local improvement bonds series _____ 19__, aggregating in all the principal sum of _____ Dollars, issued for said local improvement, district No. _____, all of which bonds are subject to the same terms and conditions as herein expressed.

"N.B. This bond is issued by virtue of the provisions of an act of the Legislature of the State of Washington entitled: 'An act relating to local improvements in cities and towns and repealing certain Acts and part of Acts. 'Approved March 17th, 1911. Section Fifty-two (52) of said Act reads as follows, to-wit:

'Section 52. Neither the owner or holder of said bond issued under the authority of this Act shall have any claim therefor against the city upon which the same is issued, but his remedy in case of nonpayment shall be confined to the enforcement of such assessments. A copy of this section shall be written, printed or engraved on each bond so issued.'

"IN WITNESS WHEREOF, the city of Kettle Falls has caused these presents to be signed by its Mayor, attested by its city clerk-treasurer, and sealed with its corporate seal this _____ day of _____ in the year of our Lord One Thousand Nine Hundred and _____.

CITY OF KETTLE FALLS

Attest: By _____
Mayor

_____
City Clerk-treasurer"

There shall be attached to each bond such number of coupons not exceeding ten, as shall be required to represent the installments of interest thereon payable, _____ annually, for the term of said bond, which coupon shall be in substantially the following form:

"On the _____ day of _____, 19__, the City of Kettle Falls in the State of Washington promises to pay to bearer at the office of the City Clerk-treasurer _____ _____ Dollars, being interest due on that day on bond No. _____ of the bonds of local improvement fund, district No. _____ of the City of Kettle Falls, and not otherwise; provided, that this coupon is subject to all the terms and conditions contained in the bond to which it is annexed.

"Attested and countersigned by

_____
Mayor of the City of Kettle Falls

_____
City Clerk-treasurer"
(Ord. 1337 §15, 1980).

3.04.160 Bond--Registry kept by clerk-treasurer. The city clerk-treasurer shall keep in his office a register of all bonds issued. He/she shall enter therein the local improvement fund district number for which the same are issued, and the date, and the amount, and the number of each bond, and the term of payment. (Ord. 1337 §16, 1980).

3.04.170 Warrants--Issuance. When the improvement shall be ordered and payment therefore made without the issuance of bonds, the city council shall cause warrants to be issued in payment of cost and expense thereof, which warrants shall bear interest at the rate of eight percent per year, and shall be payable only out of the special fund to be provided for under the local improvement district under which the same are issued. (Ord. 1337 §17, 1980).

3.04.180 Warrants--Call and payment procedure. A. It shall be the duty of the city clerk-treasurer to call and pay in numerical order such outstanding warrants against any particular improvement fund as he/she may be able to pay with the money on hand credited to such fund, but not sufficient to pay the whole of the next succeeding outstanding warrant, he may call in and pay such portion thereof as shall exhaust the amount of such fund.

B. Whenever the city clerk-treasurer shall pay a portion of any warrant as provided in subsection A of this section, he shall endorse upon the warrant the date and amount of the payment and take a receipt from the holder thereof, showing the number and description of the warrant and the date and amount paid, which receipt the city-treasurer shall return with his report to the city council as voucher for the money paid. (Ord. 1337 §18, 1980).

3.04.190 Assessments--Collection and recordkeeping by clerk-treasurer--Segregation restricted. The city clerk-treasurer is authorized to collect and receive from any owner or owners of any subdivision or subdivisions of any lot, tract or parcel of land upon which a local improvement assessment has been, or may be made, such portion of the assessment or assessments levied or to be levied against such lot, tract or parcel of land in the payment of the local improvement as the city engineer or the engineer of the LID shall certify to be chargeable to such subdivision or subdivisions, in accordance with the requirements and provisions of law, and the ordinances of the city in force at the time the original charge or assessment was made, together with a similar proportion of any penalties, interest or costs which have accrued; and, upon making such collection upon any such subdivision, the city clerk-treasurer give receipt for such certified proportion of the assessment as and for the assessment levied upon and due from the subdivision; provided, that the ordinance codified in this section and in Sections 3.04.120 through 3.04.130 shall not authorize the segregation of any assessment which has been delinquent for a period of two years or more, or in any case where it appears that such property as segregated is not sufficient security for the payment of the assessment. In such instance, the city clerk-treasurer shall determine such question of fact. No segregation of any assessment on unplatted lands or large platted tracts shall be made until a plat thereof has been furnished to the city engineer, or the engineer of the LID by the applicant for segregation showing that the proposed segregation of property will conform to the system of streets as platted in adjacent territory. In all such instances, the city clerk-treasurer or the engineer of the LID shall determine such question of fact. (Ord. 1561 §4, 1998, Ord. 1337 §19, 1980).

3.04.200 Assessments--Segregation authorized when. Whenever, on account of the filing of a plat or replat or on account of a sale or contract to sell or other proper evidence of the change of ownership of a divided portion of any lot, tract or parcel of land assessed for local improvements, it appears to be to the best interest of the city to segregate such assessment, the city clerk-treasurer or the engineer of the LID is authorized to make the proper certification, as provided for in Section 3.04.110 upon the written application of the owner, approved by the city clerk-treasurer, and upon the payment of the fee provided for in Section 3.04.130. (Ord. 1561 §4, 1998, Ord. 1337, §20, 1980).

3.04.210 Assessment--Fee for segregation. A fee of fifty dollars per description shall be charged for each description added to the assessment roll by such certificate of the city administrator or the engineer of the LID, such fee to be paid to the city clerk-treasurer and shall be deposited in the general fund. (Ord. 1337 §21, 1980).

3.04.220 Foreclosure of delinquent assessments. Whenever on the first day of January of any year two installments of any improvement assessment are delinquent for more than one year, the city clerk-treasurer shall, on or before the first day of October in such year, proceed with the foreclosure of all such delinquent assessments or installments in an action brought in the name of the city in the Superior Court of Stevens County, in accordance with the provisions of RCW 35.50.220. (Ord. 1561 §4, 1998, Ord. 1337 §22, 1980).

3.04.230 Foreclosure in accordance with state law. The city elects to foreclose all local assessments and installments thereof, whether levied prior to the effective date of Chapter 275 of the 1927 Session Laws of Washington or subsequent to such date, in accordance with the provisions of the chapter: provided, that wherever the city has initiated the foreclosure of any delinquent assessments or installments thereof under the provisions of Chapter XXII of Remington's Compiled Statutes of Washington, the city clerk-treasurer may carry such foreclosure proceeding to completion as provided in Chapter XXII or may proceed to foreclose anew under the provisions of Chapter 275 of the 1927 Session Laws of Washington. (Ord. 1337 §23, 1980).

3.04.240 Guaranty fund--Created--Purpose. Pursuant to the provisions of RCW Ch. 35.54, there is created in the treasury of the city a fund which shall be designated local improvement guaranty fund for the purpose of guaranteeing to the extent of such fund, and in the manner provided in RCW Ch. 35.54, the payment of local improvement bonds and warrants issued by the city. (Ord. 1561, §4, 1998, Ord. 1337, §24, 1980).

3.04.250 Guaranty fund--Transfer of assets from other funds. There is transferred to the guaranty fund established in Section 24 all the assets of the guaranty fund created by ordinance of the city, or of any other local improvement guaranty fund created by ordinance of the city pursuant to Chapter 138 of the Laws of 1917 or Chapter 141 of the Laws of 1923, and all bonds guaranteed by the former fund or funds shall be guaranteed by the fund created by Section 25 in accordance with the provisions of this chapter and of Chapter 209 of the Laws of 1927, as amended. (Ord. 1337 §25, 1980).

3.04.260 Guaranty fund--Source of moneys. For the purpose of maintaining such guaranty fund the city shall each year levy upon all of the taxable property in the LID such sums as may be necessary to meet the financial requirements of the fund; provided, that the sums so levied in any year shall not be more than sufficient to pay the outstanding warrants on the fund and to establish therein a balance which, combined with the levy in any one year, shall not exceed five percent of the outstanding obligations thereby guaranteed. (Ord. 1337 §26, 1980).

3.04.270 Guaranty fund--Defaulted interest coupons, bonds and warrants. The local improvement guaranty fund shall constitute a reserve from which defaulted interest coupons, bonds and warrants guaranteed thereby can be purchased, and warrants drawing interest at a rate not to exceed six percent shall be issued against the guaranty fund to meet any liabilities accruing against it. Warrants on the local improvement guaranty fund shall be numbered serially in the order of their issuance. (Ord. 1337 §27, 1980).

3.04.280 Guaranty fund--Tax levy for payment of warrants. At the time of making its annual budget and tax levy, the city shall provide for the levying of a sum sufficient, with the other resources of the fund, to pay warrants so issued during the preceding fiscal year; provided, that such warrants shall at no time exceed five percent of the outstanding bond obligations guaranteed by the fund. As among the several issues of bonds or warrants guaranteed by the fund, no preference shall exist, but defaulted interest coupons, bonds and warrants shall be purchased out of the fund in the order of their presentation. (Ord. 1337 §28, 1980).

3.04.290 Guaranty fund--City to acquire subrogation rights. Whenever there is paid out of a guaranty fund any sum on account of principal or interest of a local improvement bond or warrant, the city, as trustee for the fund, shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from bank deposits of the fund, as well as any surplus remaining in any local improvement fund guaranteed under this chapter after the payment of all outstanding bonds or warrants payable primarily out of such local improvement fund. (Ord. 1337 §29, 1980).

3.04.300 Nonliability of city. This chapter is intended to be a law of general application for the public at