

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 17
LOCAL IMPROVEMENT DISTRICT CODE -- GUARANTEE FUND

50-1701. SHORT TITLE. [Chapter 17, title 50](#), Idaho Code, shall be known and cited as the "Local Improvement District Code."

[50-1701, added 1976, ch. 160, sec. 2, p. 568.]

50-1702. DEFINITIONS. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively given herein.

(a) Municipality. Counties, water and/or sewer districts organized pursuant to the provisions of [chapter 32, title 42](#), Idaho Code, highway districts, cities, including but not limited to those working under a special charter which have by such charter accepted the provisions of this code, and any city or like municipality hereafter created or authorized by the legislature unless one or more of the above shall be specifically excepted in any particular section of this code.

(b) Street or streets. The entire legal right of way and highways, roads, boulevards, avenues, streets, alleys, courts and all public places within a city, county, highway district, or water and/or sewer district.

(c) Council. The board of county commissioners, board of directors of water and/or sewer districts, the board of highway commissioners of any highway district, the mayor and council of all incorporated municipalities as well as any other municipal body or board which may now, or hereafter be authorized by law to do and perform any act in relation to the making of local improvements within any municipality as provided for in this code.

(d) Clerk, attorney or other municipal officer. The appropriate and comparable city and county officers with regard to city and county local improvement districts, highway district officers with regard to such highway district local improvement districts, and water and/or sewer district officers in regard to water and/or sewer local improvement districts.

(e) Engineer. The official engineer of the municipality or one specially retained for purposes of operating under this code.

(f) Off-street parking. All machinery, equipment, materials and appurtenances, including lands, easements, rights of way and buildings required, necessary or useful for the parking of vehicles on lands or places other than public streets.

(g) Resident owner or resident owners. The owner of property within, and who resides in a dwelling house situate in whole or in part within the limits of a local improvement district, or a proposed local improvement district; and a corporation, joint stock association, partnership, individual proprietor, or other form of business enterprise owning real property, and having its principal place of business, within any such district or proposed district.

(h) Cost and expenses. The contract price of all improvements, including the cost of making improvements within any intersection, together with any costs or expenses incurred for engineering, clerical, printing and legal services as well as for advertising, surveying, inspection of work, collection of assessments, interest upon bonds or warrants, and an amount for contingencies as shall be considered necessary by the council.

[50-1702, added 1976, ch. 160, sec. 2, p. 568.]

50-1703. POWERS CONFERRED. (a) The governing body of any municipality shall have power to make or cause to be made any one (1) or more or combination of the following improvements:

- (1) To establish grades and lay out, establish, open, extend and widen any local, collector, arterial or other street, sidewalk, alley or off-street parking facility;
- (2) To purchase, acquire, construct, improve, repair, light, grade, pave, repave, surface, resurface, curb, gutter, sewer, drain, landscape and beautify any street, sidewalk or alley;
- (3) To purchase, construct, reconstruct, extend, maintain or repair bridges, sidewalks, crosswalks, driveways, culverts, sanitary sewers, storm sewers, ditches, drains, conduits, flood barriers and channels for sanitary and drainage purposes, or either or both thereof, with inlets or outlets, manholes, catch basins, flush tanks, treatment systems and all other sewer and drainage appurtenances necessary for the comfort, convenience, health and well-being of the inhabitants of the municipality; provided, that any improvements for sanitary sewer facilities shall be constructed so as to conform with the general rules of the Idaho department of environmental quality;
- (4) To construct, reconstruct, extend, maintain, or repair lines, facilities and equipment (other than generating equipment) for street lighting purposes or for the expansion or improvement of a previously established municipally-owned electrical distribution system, to a district within the boundaries of the municipality;
- (5) To plant, or cause to be planted, set out, cultivate and maintain lawns, shade trees or other landscaping;
- (6) To cover, fence, safeguard or enclose reservoirs, canals, ditches and watercourses and to construct, reconstruct, extend, line or re-line, maintain and repair waterworks, reservoirs, canals, ditches, pipes, mains, hydrants, and other water facilities for the purpose of supplying water for domestic, irrigation and fire protection purposes, or any of them; regulating, controlling or distributing the same and regulating and controlling water and watercourses leading into the municipality;
- (7) To acquire, construct, reconstruct, extend, maintain or repair parking lots or other facilities for the parking of vehicles on or off streets;
- (8) To acquire, construct, reconstruct, extend, maintain or repair parks and other recreational facilities;
- (9) To remove any nonconforming existing facility or structure in the areas to be improved;
- (10) To construct, reconstruct, extend, maintain or repair optional improvements;
- (11) To acquire by purchase, gift, condemnation, or otherwise any real or personal property within the limits of the municipality as in the judgment of the council may be necessary or convenient in order to make any of such improvements or otherwise to carry out the purposes of this chapter;
- (12) To make any other improvements now or hereafter authorized by any other law, the cost of which in whole or in part can properly be deter-

mined to be of particular benefit to a particular area within the municipality;

(13) To construct and install all such structures, equipment and other items and to do all such other work and to incur any such costs and expenses as may be necessary or appropriate to complete any of such improvements in a proper manner;

(14) To purchase, build, construct, reconstruct or otherwise improve parking facilities and all other appurtenances necessary to provide adequate off-street parking, and to that end may acquire real or personal property by purchase, gift, condemnation or otherwise, and may own, possess and maintain such real or personal property within the limits of the municipality as in the judgment of the council may be necessary and convenient for such purposes; and

(15) To acquire, purchase, build, construct or reconstruct irrigation systems, install underground tiling and cover open irrigation ditches.

(b) For the purpose of making and paying for all or a part of the cost of any of such improvements (including optional improvements), the governing body of a municipality may create local improvement districts within the municipality, levy assessments on the property within such a district which is benefited by the making of the improvements and issue interim or registered warrants and local improvement bonds as provided in this chapter.

[50-1703, added 1976, ch. 160, sec. 2, p. 569; am. 1999, ch. 291, sec. 2, p. 725; am. 2001, ch. 103, sec. 94, p. 332.]

50-1703A. LOCAL BUSINESS IMPROVEMENT DISTRICTS. (1) The legislature finds that the development of architectural themes for cities is a legitimate method to further the public health, safety and welfare of cities. The purpose of the provisions of this section is to authorize cities to create local business improvement districts for the purpose of constructing and financing the cost and expense of improvements to the exterior portions of business buildings to bring business buildings within the district into conformity with the architectural theme adopted by the city. The improvement of business buildings in conformity with the architectural theme adopted by the city is hereby declared a public purpose.

(2) Municipalities are hereby authorized to create local business improvement districts for the purpose of constructing and financing the cost and expense of improvements to the exterior portions of business buildings in order to bring business buildings within such districts into conformity with an architectural theme adopted by the city.

(3) The term "business building" includes any building devoted primarily to business purposes, including professional and governmental purposes.

(4) It is the intent of the provisions of this section that local business improvement districts be administered in all respects as are local improvement districts, except as provided herein.

(5) Local business improvement districts shall be initiated by presentation to the council of a petition containing the following:

(a) A description of the particular lots and parcels to be included in the proposed district;

(b) A description of the improvements to be constructed and financed by the district;

(c) The estimated cost of the improvements;

(d) The percentage of the cost to be assessed against each lot and parcel within the district; and

(e) The signature of the owner of record of each lot or parcel to be included within the district, consenting to inclusion of the lot or parcel within the district.

(6) The total project amount assessed against each parcel within the district shall be no more than twenty percent (20%) of the market value for assessment purposes of the parcel.

(7) Lots and parcels need not be contiguous in order to be included within a district. No lot or parcel may be included within a district without the written consent of the owner thereof; provided, that, after the district has been created, consent to inclusion in the district may not subsequently be withdrawn prior to payment of all costs of the improvements.

(8) Upon receipt of the petition, the council shall adopt a resolution of intention, substantially in the form provided in section [50-1707](#), Idaho Code, stating the council's intention to create the district, to make the improvements, and to levy assessments to pay the cost thereof. The resolution shall contain a statement as to the percentage of the costs to be assessed against each particular lot or parcel within the proposed district.

(9) Notice shall be given and a hearing conducted in the manner provided in sections [50-1708](#) and [50-1709](#), Idaho Code. If, after such hearing, the council determines to create the district, it shall proceed as provided in this chapter for the creation of the district, the construction of the improvements, the preparation of, hearing upon, and confirmation of the assessment roll, the collection of assessments and the issuance of bonds or warrants. Each assessment shall be a lien upon the property against which it is assessed, as provided in section [50-1721](#), Idaho Code.

[50-1703A, added 1987, ch. 26, sec. 1, p. 35.]

50-1704. IMPROVEMENTS ON RAILROAD TRACKS OR ON ONE SIDE OF A STREET. (a) Whenever any improvement shall be made upon any street occupied by the tracks of any railroad, the council is authorized and it shall be its duty to assess against such railroad situated within the improvement district its just proportion of the cost and expenses of making such improvement, which proportion shall be estimated on a basis of charging to said railroad not less than the cost and expenses of improving the space between the rails of said tracks, and for a distance of two (2) feet on each side of said rails. Said assessment shall be made on the rolls of said improvement district against the railway or railroad, the same as against other property, and said assessment shall be a lien upon said portion of said railroad from the time of the levy of the assessment by the council, and shall be collected in the same manner as other local improvement district assessments.

(b) When any work or improvement herein authorized is done or made on only one (1) side of the center line of any street, assessments to cover the cost and expenses of such work or improvement may be levied on the lots and lands on that side only or on both sides, in amounts on each side as the council shall determine based on the benefits resulting to the property on each side.

[50-1704, added 1976, ch. 160, sec. 2, p. 571.]

50-1705. MODIFIED DISTRICT. Whenever any local improvement shall be of such nature and character that the special benefits resulting therefrom extend beyond the boundaries of the property abutting the improvement or whenever the special benefits do not accrue to some or all properties abutting

the improvements, but to other properties, the council may create a modified local improvement district, which shall include as near as may be determined all the property especially benefited by such improvements. Provided however, that by unanimous agreement of the property owners to be assessed, properties may be included or excluded from the local improvement district regardless of whether they are specially benefited by the improvements. When such district is created, all property therein shall be assessed for a portion of the cost and expenses of such improvements, to be determined and fixed by the council when the district is created.

[50-1705, added 1976, ch. 160, sec. 2, p. 572; am. 1999, ch. 291, sec. 3, p. 726.]

50-1706. INITIATION OF ORGANIZATION OF DISTRICT. The organization of any local improvement district herein provided for may be initiated upon a petition signed by not less than sixty percent (60%) of the resident owners or two-thirds (2/3) of the owners of property subject to assessment within such proposed improvement district, or by resolution of the council adopted by an affirmative vote of a majority of the members of the full council at a regular or special meeting thereof. The terms of a petition shall include a description of the boundaries of a proposed district, the improvements to be made and the property to be assessed.

[50-1706, added 1976, ch. 160, sec. 2, p. 572; am. 1999, ch. 291, sec. 4, p. 726.]

50-1706A. FEES. In the case of any local improvement district initiated by petition, the petitioners may authorize the council to charge the petitioners a reasonable fee for the council to retain outside advisors to assist the council in assessing the proposed local improvement district. The council may not charge the petitioners any fee for review of a proposed local improvement district unless the petitioners authorize the fee.

[50-1706A, added 1999, ch. 291, sec. 5, p. 727.]

50-1707. RESOLUTION OF INTENTION TO CREATE DISTRICT. Upon the filing of a petition or upon initiation of a district by council action, the council shall at a regular or special meeting adopt a resolution giving notice of its intention to create the district, to make the improvements and to levy assessments to pay all or a part thereof. The notice shall contain:

(a) A description of the boundaries of the district to be created and the property to be assessed, sufficient to inform the owners thereof that their property is to be assessed.

(b) A general description of the improvements contemplated together with an estimate of the total cost and expenses of the same and a statement of the percentage or other calculation of the total cost and expenses of the improvements which will be paid from a levy of assessments on property benefited and the percentage or calculation of the total costs and expenses which will be paid from the general funds of the municipality or from such other source specified in the notice.

(c) A statement that the costs and expenses of the improvements will be assessed against the lots and lands specially benefited by such improvements, except as provided in section [50-1705](#), Idaho Code, and included in the district to be created according to a front foot method, or a square foot

method, or a combination thereof, or in proportion to the benefits derived to such property by said improvements, or by another method agreed to by all property owners to be assessed, and the council shall state the method so determined in said notice.

(d) A statement that the district is to be a modified district within the meaning of this act, if the same is true, and the boundaries of such modified district shall be given.

(e) A statement of the time within which and the place at which protests shall be filed and of the time and place at which the council will conduct a public hearing to consider such protests.

[50-1707, added 1976, ch. 160, sec. 2, p. 572; am. 1999, ch. 291, sec. 6, p. 727; am. 2007, ch. 58, sec. 1, p. 140.]

50-1708. NOTICE OF INTENTION AND HEARING. The notice of intention shall be published in the official newspaper of the municipality in three (3) consecutive issues if a daily newspaper, or in two (2) issues if a weekly newspaper or in case no newspaper is published in such municipality then by posting for five (5) days in three (3) public places within the proposed improvement district. A copy of such notice shall be mailed to each owner of property if known or his agent if known, within the limits of the proposed improvement district, addressed to such person at his post office address if known, or if unknown, to a post office in the municipality where the improvement is to be made. Ownership of property shall be determined as of the date of the adoption of the resolution of intent to create. The hearing shall take place not less than ten (10) days from the date of the first of said publications or postings or the date of said mailing, whichever is later.

[50-1708, added 1976, ch. 160, sec. 2, p. 573.]

50-1709. PROTESTS AND HEARING. Any owner of property to be assessed in the proposed local improvement district described in the notice of intention shall have the right, in advance of the hearing, to file in writing a protest to the creation of the district or making any other objections in relation thereto. At the date, time and place specified in the notice of intention the council shall in open and public session consider all protests which have been filed in writing in advance of the hearing, and the hearing may be adjourned from time to time to a fixed future time and place for the same until all such protests have been heard. The decision of the council as to all protests shall be conclusive and final, and if it should so determine, the council may delete any improvements or any property which had originally been contemplated in the said notice. If owners of more than two-thirds (2/3) of the property to be assessed protest any of the proposed improvements which affect their property, the council shall not proceed further with the work so protested unless a majority of the members of the full council shall vote to proceed with such work. The vote on the hereinafter mentioned ordinance creating the improvement district shall constitute the vote as to whether or not the council will proceed. Any property owner who fails to file a protest within the time specified, or having filed one withdraws said protest, shall be deemed to have waived any objection to the creation of the district, the making of the improvements, and the inclusion of his property in the district. Such waiver shall not preclude his right to object to the amount of the assessment at the later hearing provided for such purpose.

In cases where the creation of a local improvement district has been proposed by the governing board of an entity other than a city council or board of county commissioners, and where written protests are filed and sixty percent (60%) of the resident owners or the owners of two-thirds (2/3) of the lots and lands subject to assessment within such proposed improvement district have signed such protest, the governing board of the governmental entity proposing the local improvement district shall not be allowed to proceed with the creation of the district for a period of one hundred eighty (180) days. During this one hundred eighty (180) day period, the city council shall act as a review board for as much of the proposed district as is situated within the boundaries of the city, and the board of county commissioners shall act as a review board for that portion of the proposed local improvement district as is situated within the unincorporated portion of the county. As a review board, the city council or board of county commissioners shall review the record of the proposal, including conformance with procedural provisions of law. The city council or board of county commissioners shall also evaluate the necessity or desirability of the proposed district, and shall take into consideration the creation of the proposed local improvement district as it relates to the following:

- (a) the health, safety and welfare of the residents of the proposed district, or of persons having the necessity to travel through the district; and
- (b) the financial impact of the creation and implementation of the objectives of the proposed district upon the property owners within the proposed district, especially in light of projects recently undertaken or contemplated for the near future within the district.

After its evaluation, the city council shall approve, modify or reject the proposal for the creation of a local improvement district for as much of the proposed district as is situated within the boundaries of the city, and the board of county commissioners shall approve, modify or reject the proposal for the creation of a local improvement district for as much of the proposed district as is situated within the unincorporated portion of the county.

[50-1709, added 1976, ch. 160, sec. 2, p. 573; am. 1999, ch. 291, sec. 7, p. 728.]

50-1710. ORDINANCE CREATING IMPROVEMENT DISTRICT AND PROCEDURE FOR CONSTRUCTION BIDS. If, after the hearing on the creation of the district, the council finds (a) that the district will be for the best interest of the property affected and the municipality, (b) that there is reasonable probability that the obligations of such district will be paid, and (c) the value of the property within the proposed district, including the proposed improvements, is sufficient, it shall then enact an ordinance providing for such improvements and creating a local improvement district to be called "Local Improvement District No. for, Idaho," which shall include all of the property within said district in accordance with the findings of the council, and said ordinance shall set forth the boundaries of the district, provide the improvements which shall be made, and state that the total cost and expenses thereof shall be assessed according to the percentage or calculation hereinbefore mentioned on all benefited property in the district by using the method of assessment contemplated in the notice of intention subject to any variation therefrom as a result of the council's determining that the benefits to be derived by certain lots or parcels of property warrant such variations. The council may either purchase, acquire

or construct the improvements. The council shall appoint an engineer. If the council elects to construct the improvements, the engineer shall have prepared the necessary plans and specifications for the construction work ordered.

Except as hereinafter otherwise provided, the council shall authorize the advertisement for bids therefor by giving notice calling for sealed bids in accordance with the provisions of [chapter 28, title 67](#), Idaho Code.

Any acquisition, purchase or construction contract made by a municipality for any improvements authorized by this code shall be made by the council in the name of the municipality upon such terms of payment as shall be fixed by the council. The contract shall be authorized by resolution empowering the authorized officer of the municipality to execute the contract. The resolution need not set out the contract in full but it shall be sufficient if the resolution refers to a copy of the contract on file in the office of the clerk where it is available for public inspection.

Any provision in this local improvement district code notwithstanding, if any municipality shall elect to exercise the powers herein granted jointly with any other public agency or agencies as authorized by the provisions of section [67-2328](#), Idaho Code, the improvements as contemplated within the local improvement district may be constructed jointly and as part of a larger project with such other agency or agencies upon the letting of a single contract after compliance with the required bidding procedure for any Idaho public agency jointly participating in the work.

[50-1710, added 1976, ch. 160, sec. 2, p. 575; am. 1999, ch. 291, sec. 8, p. 729; am. 2005, ch. 213, sec. 20, p. 655.]

50-1711. LIMITATION ON ASSESSMENTS AGAINST PROPERTY. No municipality shall order any improvement to be paid for by local assessment where the estimated costs of such improvement, if such costs are to be assessed to the property in the district, or that portion of the estimated costs to be assessed, if a portion only of said total costs are to be assessed, when added to all other outstanding and unpaid local improvement assessments against the property included in the district, excluding penalties and interest, shall exceed the actual value of the real property, including the value of the improvements thereon.

The council shall provide, by ordinance, the method of determining the actual value of the real property including the improvements thereon in the district and when the valuation is so determined, such valuation shall be final and conclusive in the absence of fraud or gross mistake.

[50-1711, added 1976, ch. 160, sec. 2, p. 576.]

50-1712. PREPARATION OF ASSESSMENT ROLL AND NOTICE OF HEARING THEREON. After the contract has been awarded and at such time as the council shall determine, the engineer shall prepare a duly certified report to the council showing in detail the total cost and expenses of the improvements and the dollar amounts of the same payable from assessments and from other sources. The report shall also contain a form of assessment roll numbering each assessment, giving the name, if known, of the owner of each lot or parcel of property assessed, and showing the amount chargeable to each lot or parcel of property according to the method of assessment originally contemplated by the council subject to any variations therefrom as a result of the engineer's recommendation that benefits to be received by any lot or parcel of property

warrant such a variation from the method chosen. Each lot or parcel of property shall be described with sufficient clearness to identify it, and if the engineer recommends any variations from the contemplated method of assessment, those variations shall be pointed out and the reasons for the same shall be given in the report. No assessment for water or sewer purposes shall be levied against any property of any public utility unless the latter shall agree to the same by filing a written consent in the office of the clerk of the municipality; and in the event that a local improvement district constructs water and sewer improvements as well as other improvements the engineer shall assess public utilities only for the amount of the total cost and expenses which the engineer finds to be attributable to such other improvements if no such consent has been given.

Upon receipt of the report, the council shall cause the assessment roll contained therein to be filed in the office of the clerk where it shall be available for public inspection. The council shall thereupon fix a time and place when and where the council will meet in open session and consider the report and the assessment roll and hear all objections to the assessment roll by the property owners of the district.

[50-1712, added 1976, ch. 160, sec. 2, p. 577.]

50-1713. NOTICE OF HEARING ON ASSESSMENT ROLL. After the council fixes the time and place for said hearing on the assessment roll, the clerk of the municipality shall give notice by publication in the official newspaper of such municipality in three (3) successive issues if published in a daily newspaper, or by publication in two (2) issues if published in a weekly newspaper, the first of which publication shall be at least fifteen (15) days before the date fixed for hearing objections to said assessment roll, that such assessment roll is on file in his office. The notice shall further state the date, time and place at which the council will hear and consider objections to the assessment roll by the parties aggrieved by such assessments. The clerk shall, not less than fifteen (15) days before the date fixed for hearing objections to said assessment roll, mail a substantially similar notice to each owner of property if known, or his agent if known, within the limits of the improvement district, addressed to such person at his post office address if known, or if unknown, to the post office in such municipality where the improvement is to be made. The mailed notice shall also state the amount of the individual assessment and that at the specified time and place the council will hold a hearing to hear and determine all objections to the regularity of the proceedings in making such assessment, the correctness of the assessment, and the amount levied on the particular lot or parcel in relation to the benefits accruing thereon and in relation to the proper proportionate share of the total cost of the improvements in the project. It shall further state that each owner of property within the district is given notice that in revising the assessment roll at or after the hearing, the council may increase any assessment or assessments up to twenty per cent (20%) of the original amount thereof without giving further notice and holding a new hearing thereon. The owner or owners of any property which is assessed in such assessment roll, whether named or not in such roll, may, before the date and time fixed for the hearing, file with the clerk his objections in writing to said assessment.

[50-1713, added 1976, ch. 160, sec. 2, p. 577.]

50-1714. HEARING OBJECTIONS TO ASSESSMENT ROLL AND CONFIRMATION. At the time appointed for hearing objections to such assessment roll, the council shall consider the engineer's report and the assessment roll and shall hear and determine all objections which have been filed by any party interested to the regularity of the proceedings in making such assessment, to the correctness of such assessment, to the amount levied on any particular lot or parcel of land, including the benefits accruing thereon and the proper proportionate share of the total cost of the improvements to be borne thereby and to the inclusion of any lot or parcel of land in the proposed district. The council shall have the power (a) to adjourn such hearing from time to time and, in its discretion, to revise, correct, conform or set aside any assessment and to order that such assessment be made de novo, and (b) to exclude any lot or parcel of land from an assessment roll which, in the judgment of the council, it finds will not be benefited by improvements to be made. If any assessments are increased in an amount greater than twenty per cent (20%) of the amount of the assessments as set out in the notice of the hearing, then a new notice of the hearing shall be given and a new hearing held as aforesaid. No new hearing shall be required in the event that any assessments are decreased in any amount or are increased in an amount up to twenty per cent (20%) of the original amount.

[50-1714, added 1976, ch. 160, sec. 2, p. 578.]

50-1715. CONFIRMATION OF ASSESSMENT ROLL. (1) After said hearing, the council shall pass an ordinance confirming the assessment roll as corrected by the council in relation to the benefits accruing thereon as a result of the improvements being made. The ordinance shall be the final determination of the regularity, validity and correctness of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each lot or parcel of land, which ordinance shall contain a finding that each lot or parcel of land is benefited to the amount of assessment levied thereon subject to appeal as provided herein. Upon passage of the ordinance, the clerk shall certify and file the confirmed assessment roll with the treasurer of the municipality and the assessments therein shall be due and payable to the treasurer within thirty (30) days from the date of the adoption of the ordinance. The confirmed assessment roll and the assessments made by the confirmed assessment roll shall be a lien upon the property assessed from and after the date the following notice is recorded. Immediately upon passage of the confirming ordinance, the clerk shall file with the county recorder a notice which shall contain the date of the confirming ordinance and a description of the area or boundaries of the district. If any assessment is not paid in full within said thirty (30) day period, such assessment shall become delinquent and shall be collected in the same manner and with the same penalties and interest added thereto as hereinafter provided for delinquent assessments. The council may, in the alternative, determine to make assessments unpaid at the end of said thirty (30) day period payable in installments and to issue and sell registered warrants or installment bonds payable from such unpaid installments as herein provided. If the council chooses to do so, it shall provide in said ordinance that any property owner who has not paid his assessment in full within said thirty (30) day period will be conclusively presumed to have chosen to pay the same in installments, and the ordinance shall then establish the number of years said installments shall run, the dates of payment of the same, and the rate of interest that the unpaid assessments shall bear, which rate shall not be less than the rate of interest

borne by the warrants or bonds payable therefrom, said interest running from the date of the passage of the assessment ordinance, irrespective of the date of its official publication, and being payable at the same time and place as the installment payments of assessments. Said installments shall be due and payable in not to exceed thirty (30) years to the treasurer or other proper officer as provided by the council. The ordinance shall establish the due date of the first installment payment and that the local or special assessments may be carried on the rolls of the municipality and collected as hereinafter provided. If any installment is not paid within twenty (20) days from the date it is due, the same shall become delinquent and the treasurer shall add a penalty of two percent (2%) thereto. In addition to any other method of collection provided in this code, the council may certify delinquent installments to the tax collector, and when so certified they shall be extended on the tax rolls and collected as are property taxes, pursuant to the provisions of [chapter 10, title 63](#), Idaho Code. In the event that any property owner should choose to pay his assessment in full after such time as it has been conclusively presumed that he will pay in installments, such payment in full shall include the full amount of the unpaid assessment plus penalties and all interest payable on the same plus additional interest thereon at the rate provided in the bonds from the date of the last installment due to one (1) year after the next interest date of said bonds.

(2) Any errors in description, ownership of property, or amounts in any assessment ordinance adopted pursuant to this section may be corrected by the passage of an amendatory ordinance, which need set forth only the corrected descriptions or amounts. The passage of such amendatory ordinance shall serve only to postpone the thirty (30) day period for payment in full of the assessments actually affected by such amendatory ordinance, and the due dates of installments of such affected assessments shall be the same as the due dates of installments not affected. Notice of any assessments so affected shall be given in the same manner as hereinafter provided for the giving of notice of assessments.

[50-1715, added 1976, ch. 160, sec. 2, p. 579; am. 1983, ch. 41, sec. 1, p. 98.; am. 2020, ch. 273, sec. 2, p. 806.]

50-1716. NOTICE AND PAYMENT OF ASSESSMENTS. Upon passage of the assessment roll, the treasurer of the municipality shall mail a postcard or letter to each property owner assessed at his post office address if known, or if unknown, to the post office in the municipality where the improvement is being made, stating the total amount of his assessment, plus the substance of the terms of payments of the same as set out in the ordinance confirming the assessment roll.

An affidavit of the mailing of the notice shall be filed, before the date of delinquency, in the office of the treasurer in the file of the improvement district, but the failure of the treasurer to give any notice required by this section or to do any other act or thing required by this section, shall not affect the validity of the assessments or installments thereof due nor extend the time for payment, but shall subject the municipality to liability to a taxpayer for any damage sustained by the latter by reason of such failure.

[50-1716, added 1976, ch. 160, sec. 2, p. 581.]

50-1717. INSTALLMENT DOCKET. Whenever any improvement bonds or warrants are issued as herein provided, the treasurer shall immediately thereafter mark on the assessment roll of such local improvement district opposite each assessment which has been paid, the word "paid" together with the date of payment, and shall immediately thereafter enter in a docket to be kept for that purpose, known as "local improvement installment docket" under separate heads for each improvement district, all unpaid assessments as shown on such assessment roll, said docket to be made up from the assessment roll, and shall contain in separate columns the number of the assessment, the name of the owner, the description of the property, the amount of the total assessment, the amount and date when due of each annual installment with interest added, and a blank column in which shall be marked the date of payment of each installment. Such docket shall stand thereafter as a lien docket for such assessments so shown until paid.

[50-1717, added 1976, ch. 160, sec. 2, p. 581.]

50-1718. APPEAL PROCEDURE -- EXCLUSIVE REMEDY. Any person who has filed objections to the assessment roll or any other person who feels aggrieved by the decision of the council in confirming the same shall have the right to appeal to the district court of the county in which the municipality may be situated. Such appeal shall be made within thirty (30) days from the date of publication of the ordinance confirming the assessment roll by filing a written notice of appeal with the clerk of the municipality and with the clerk of the district court aforesaid describing the property and objections of the appellant. The appellant shall also provide a bond to the municipality in a sum to be fixed by the court, but not less than two hundred dollars (\$200) with sureties to be approved by the court, conditioned to pay all costs to be awarded to the respondent upon such an appeal. After said thirty (30) day appeal period has run, no one shall have any cause or right of action to contest the legality, formality or regularity of said assessments for any reason whatsoever and, thereafter, said assessments and the liens thereon shall be considered valid and incontestable without limitation.

If an appeal is filed within said period, the case shall be docketed by the clerk of said court in the name of the person taking the appeal against the municipality as "an appeal from assessments." Said cause shall then be at issue and have precedence over all civil cases pending in said court, except proceedings under the act relating to eminent domain by cities and actions of forcible entry and detainer. Such appeal shall be tried in said court as in the case of equitable causes except that no pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant, from which judgment an appeal may be taken to the Supreme Court as provided by law. In case the assessment is confirmed, the fees of the clerk of the municipality for copies of the record shall be taxed against the appellant with other costs.

[50-1718, added 1976, ch. 160, sec. 2, p. 581.]

50-1719. ADDITIONAL IMPROVEMENTS. Whenever any assessment is levied on any property for further, separate or additional improvement under the provisions of this code or any law of this state, such assessment shall be a subsequent lien upon the property so assessed to the lien of the unpaid assessments theretofore made for the original improvement. Whenever any

assessment is made for such further, separate or additional improvement on property on which an existing assessment has been levied for improvements, such further, separate or additional assessment for improvement shall not be construed or considered as for one and the same improvement, or for the same purpose or for the same benefit, or as a double assessment for improvements against the property being assessed for the payment of the cost and expense of such improvement but shall be considered and construed as a separate, distinct, single and independent improvement on and of benefit to the property so assessed. All assessments so levied or bonds or warrants issued payable from the same shall be considered and construed as assessments levied or bonds or warrants issued for separate, distinct, single and independent improvements and benefits on and to the property so assessed.

[50-1719, added 1976, ch. 160, sec. 2, p. 582.]

50-1720. REASSESSMENT OF BENEFITS. In all cases of assessments for local improvements of any kind against any property wherein said assessments have failed to be valid in whole or in part for want of form or sufficiency, informality, irregularity or nonconformance with the charter provisions, or laws governing such assessments, the council shall be and is hereby authorized to reassess such assessments and to enforce their collection in accordance with the provisions of law existing at the time the reassessment is made. No mistake in description of the property or the name of the owner thereof shall affect the validity of any assessment or any lien created thereby under the provisions of this code, or any law of this state, unless such mistake or error renders it impossible to identify the property so assessed.

When for any cause, mistake, or inadvertence, the amount assessed on any property is insufficient to pay the cost and expenses of the improvement made and enjoyed by the owner of such property, it shall be lawful, and the council is hereby directed and authorized, to make reassessments on said property sufficient in amount to pay for such improvements, the reassessment to be made and collected in accordance with the provisions of law existing at the time of its levy.

[50-1720, added 1976, ch. 160, sec. 2, p. 583.]

50-1721. LIEN OF ASSESSMENT -- FORECLOSURE. (1) Assessments levied to pay the cost and expense of any improvement authorized by the provisions of this code, or any law of this state, shall constitute a lien upon and against the property upon which such assessment or assessments are made and levied from and after the date upon which the ordinance levying such assessment or assessments is passed, which lien shall be superior to the lien of any mortgage or other encumbrance, whether prior in time or not, and shall constitute such lien until paid, and until paid, such lien shall not, except as otherwise provided in this section, be subject to extinguishment, including but not limited to extinguishment by reason of the sale of the property assessed on account of the nonpayment of general taxes or the conveyance of such property by any means to the United States of America, or any agency thereof, the state of Idaho, or any county, city, school district, community college district, or other public body, agency or taxing unit in said state. When bonds have not been issued and said assessments made payable in installments as herein provided, such assessments shall be collected, or the property therein shall be foreclosed and sold for such assessments and

costs, in a suit for that purpose by the municipality. Delinquent assessments certified to the tax collector for collection as provided in section [50-1715](#), Idaho Code, shall be governed by the provisions of [chapter 10, title 63](#), Idaho Code. All provisions of [chapter 10, title 63](#), Idaho Code, specifically including those governing collection, satisfaction, and extinguishment of delinquent amounts, shall apply to certified delinquent assessments in the same manner and to the same effect as delinquent property taxes.

(2) Such suit shall be in the name of the municipality as plaintiff and against any one (1) or more owners of property failing to pay such assessment or assessments as defendants. In any such proceedings where the court trying the same shall be satisfied that the improvements have been made or have been contracted for, which according to the true intent of this code would be properly chargeable to such property, a recovery shall be permitted and the lien enforced to the extent of the cost and expenses of the improvement which would be chargeable on such property notwithstanding any informality, irregularity or defect in any of the proceedings of such municipality or any of its officers, and such property shall be ordered sold for the payment of the assessment or assessments against it and the costs and expenses of such suit, including reasonable attorney's fees, to be fixed by the court and prorated to each separate piece of property.

[50-1721, added 1976, ch. 160, sec. 2, p. 583.; am. 2020, ch. 273, sec. 3, p. 807.]

50-1721A. SEGREGATION OF ASSESSMENTS. Whenever any land against which there has been levied any special assessment by any municipality shall have been sold in part or subdivided, the council of that municipality shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the municipality which levied the assessment. If the council determines that a segregation should be made, it shall by ordinance order the clerk to make segregation on the original assessment roll as directed in the ordinance. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The ordinance shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the ordinance shall be filed with the county recorder. The council may require, as a condition to the order of segregation, that the person seeking it pay the municipality the reasonable engineering and clerical costs incident to making the segregation. No segregation need be made if the council shall find that by such segregation the security of the lien for such assessment will be so jeopardized as to reduce the security for any outstanding local improvement district obligations payable from such assessment.

[50-1721A, added 1987, ch. 126, sec. 1, p. 256.]

50-1722. BONDS -- REGISTERED WARRANTS -- INTERIM WARRANTS. If the council determines to make assessments payable in instalments as is provided in section [50-1715](#), Idaho Code, it shall be [by] ordinance issued in the name of the municipality improvement bonds of the improvement district payable from assessments levied against the property within the district. Such bonds

shall be payable each year from and after the date of the bonds and shall be of such denomination and bear interest, payable annually, at such rate as is determined by the council, but in no event shall such rate of interest be greater than the rate of interest borne by the unpaid assessments.

The bonds shall be in such form and denomination as may be provided by the council and they shall mature serially over a period not exceeding thirty (30) years. The council may reserve the right to redeem any of the bonds at its option on any interest payment at such price or prices as determined by the council. The bonds shall be signed by the mayor of the city, the chairman of the board of county commissioners, the president of the highway district, or the chairman of the board of directors of a water and/or sewer district, as the case may be, and shall be countersigned by the treasurer and attested by the clerk of the municipality. No bond or coupon shall be invalid because an officer whose manual or facsimile signature thereon has ceased to hold office at the time of the delivery of the bonds so long as he held the office at the time such signature was placed on the bond or coupon. The coupons attached thereto shall bear the facsimile signatures of said officers and each bond shall have the seal of the municipality affixed thereto. Each bond shall provide that the principal thereof and the interest thereon are payable solely from the principal of an [and] interest on the unpaid assessments levied in the district to pay the total cost and expenses of the project concerned.

In lieu of bonds, registered warrants may be issued under the same circumstances and in the same manner as bonds, such warrants to be issued in payment of any or all costs or expenses of the improvements to the amount said costs or expenses were set out in the engineer's report. The warrants shall be redeemable in numerical order and further shall be subject to all provisions of this code relating to local improvement bonds so far as the same may be applicable, including, but not limited to, the provisions of sections [50-1762](#) to [50-1769](#), Idaho Code.

If the council shall determine to issue and sell bonds, it may for the purpose of meeting any cost and expenses of making the improvements, as the same are installed prior to the sale of the bonds, issue interim warrants of the district payable to the contractor, other proper person, upon estimates of the engineer, bearing interest at a rate provided by the council, which interim warrants together with the interest due thereon at the date of the issue of the bonds, shall be redeemed and retired from the proceeds of the sale of the bonds or prepayment of assessments.

Bonds issued hereunder shall have all the requisites of negotiable paper under the Uniform Commercial Code, and shall not be invalid for irregularity or defect in the proceedings for their issuance, sale or delivery, and shall be incontestable in the hands of bona fide purchasers or holders for value thereof. Nothing herein contained shall prohibit any municipality from issuing bonds or warrants in the denomination of one hundred dollars (\$100), or an even multiple thereof, except that bond number 1 of any issue may be of a denomination other than one hundred dollars (\$100).

[50-1722, added 1976, ch. 160, sec. 2, p. 584.]

50-1723. LIABILITY OF MUNICIPALITY. The holder of any bond, issued under the authority of this code, shall have no claim therefor against the municipality by which the same is issued, except to the extent of the funds created and received by assessments against the property within any local improvement district as herein provided and to the extent of the local improve-

ment guarantee fund which may be established by any such municipality under the provisions of this code, but the municipality shall be held responsible for the lawful levy of all special taxes or assessments herein provided and for the faithful accounting of settlements and payments of the special taxes and assessments levied for the payment of the bonds as herein provided. The owners and holders of such bonds shall be entitled to complete enforcement of all assessments made for the payment of such bonds. A copy of this section shall be plainly written, printed or engraved on the face of each bond so issued.

[50-1723, added 1976, ch. 160, sec. 2, p. 585.]

50-1724. BOND AND INTEREST FUNDS. Once bonds are issued as provided herein, any funds paid as instalment payments of assessments pledged to the payment of such bonds shall be kept in a fund known as the "bond fund" of the district and any funds paid as interest on said instalment payments of assessments shall be kept in a fund known as the "interest fund" of the district. The funds shall be deposited in such bank or banks as are designated as depositories of public moneys of such municipalities under the laws of this state, or invested in bonds or warrants of the municipality. Interest received on such funds so deposited or invested shall be placed to the credit of the fund from which it is earned. Maturing bonds shall be paid from the bond fund and the interest on the bonds, when due, shall be paid from the interest fund. If there is sufficient money in the bond fund to pay the principal of one or more bonds, the treasurer may call in and pay such bonds as of the next interest payment date in such manner as may be provided by the council at the time of the issuance of the bonds. The bonds to be called shall be selected by lot and shall, in the event less than all of the outstanding bonds are to be redeemed, insofar as can be done taking into consideration the denominations of the outstanding bonds, represent an equal amount of bonds from each maturity outstanding at the time of the redemption.

[50-1724, added 1976, ch. 160, sec. 2, p. 586.]

50-1725. REISSUE OF BONDS. Where any bonds issued under this code are declared invalid or void by order or decree of court, which may be legally reissued, the council of such municipality shall, by ordinance, provide for the reissuance thereof at the same rate of interest and in such amount as will cover the principal and interest due on said bonds, and the ordinance providing for such reissue shall provide for the surrender and cancellation of such bonds upon which there has been a default or which have been declared invalid or void and the lien created by the levy of such assessment or assessments as herein provided shall not be deemed to have been lost or waived by such reissue but shall remain in full force and effect.

[50-1725, added 1976, ch. 160, sec. 2, p. 586.]

50-1726. RIGHTS AGAINST ASSESSMENTS. The said bonds of any local improvement district as herein provided, when sold as hereinbefore provided, shall transfer to the owner or holder of such bonds all the rights and interest of such municipality in and with respect to every such assessment and the lien thereby created against the property of each owner assessed as shall not have availed himself of the provisions of this code, in regard to the redemption of his property as aforesaid, and shall authorize owners and holders of

such bonds to receive and have collected the assessment or assessments embraced in any such bonds through any of the methods provided by law for the collection of assessments for local improvements.

Whenever any installment of an assessment or the interest thereon made for the payment of principal, or interest on such bonds so issued, is not paid when due and shall become delinquent, the municipality may by a resolution duly adopted declare all unpaid instalments against any property to pay the cost and expenses of such improvement to be immediately due, payable and delinquent, and may thereupon cause a delinquency certificate to be issued against said property for the whole of the unpaid assessment against it in the manner hereinafter provided for issuance of delinquency certificates upon any instalment of such assessment ('s) becoming delinquent, and any such council must pass such resolution upon the written request of the holders of one-half (1/2) of any such bond issue, filed with the clerk.

[50-1726, added 1976, ch. 160, sec. 2, p. 587.]

50-1727. PUBLICATION AND CONCLUSIVENESS OF PROCEEDINGS. The council may provide for the publication of any ordinance, resolution or other proceeding adopted by it pursuant to this code in the official newspaper of the municipality. For a period of thirty (30) days after such publication any person in interest shall have the right to contest the legality of such ordinance, resolution or proceeding or any bonds which may be authorized thereby. No contest or proceeding to question the validity or legality of any ordinance, resolution or proceeding, or any bonds which may be authorized thereby, passed or adopted under the provisions of this code shall be brought in any court by any person for any cause whatsoever, after the expiration of thirty (30) days from the date when the ordinance, resolution or proceeding was published, and after such time the validity, legality and regularity of such ordinance, resolution or proceeding or any bonds authorized thereby shall be conclusively presumed. If the question of validity of any bonds issued pursuant to this code is not raised within thirty (30) days from the date of publication of the ordinance, resolution or proceeding issuing said bonds and fixing their terms, the authority to issue the bonds, the legality thereof and of the assessments necessary to pay the same shall be conclusively presumed and no court shall thereafter have authority to inquire into such matters.

[50-1727, added 1976, ch. 160, sec. 2, p. 587.]

50-1728. CONSOLIDATED LOCAL IMPROVEMENT DISTRICTS AUTHORIZED. Solely for the purpose of issuing bonds, registered warrants, or interim warrants, the governing body of any municipality may authorize the establishment of consolidated local improvement districts. The original local improvement districts so consolidated need not be contiguous. If the council orders the creation of such consolidated local improvement districts, the moneys received from the installment payment of the principal of and interest on assessments levied within the original local improvement districts shall be deposited in a consolidated local improvement district bond fund and interest fund to be used to pay the principal of and interest on the outstanding consolidated local improvement district bonds or warrants.

[50-1728, added 1981, ch. 149, sec. 1, p. 259.]

50-1738. DELINQUENT INSTALMENTS. If any instalment or payment is not made as provided hereinbefore and in default, it shall then become delinquent.

[50-1738, added 1967, ch. 429, sec. 324, p. 1249.]

50-1739. DELINQUENT CERTIFICATES. As soon as any assessment or instalment thereof, of any local improvement district shall become delinquent, the treasurer shall, if such assessment be collected in one (1) payment, mark the same delinquent on the assessment roll, or if for an instalment of an assessment, on the "Local Improvement Instalment Docket," and shall add to the amount shown on said assessment roll, or instalment docket, a penalty of two per cent (2%) thereon. Within ten (10) days thereafter the treasurer shall prepare and issue to the municipality, in which such local improvement district is located, a delinquency certificate to the property included in each such delinquent assessment or instalment, which certificate shall have the force and effect of a sale of said property to the municipality for the amount thereof, said certificate shall bear date as of the time such assessment or instalment became delinquent and shall be for the amount thereof plus the penalty charged thereon. Such certificate shall contain, besides the description of the property to be sold, the name of the person assessed, if known, or if unknown, that fact, the amount of the assessment of instalment, plus penalty thereon; the number of the assessment and the name of the improvement district in which assessed; the date when such certificate will go to deed and shall bear interest from date thereof at the rate of ten per cent (10%) per annum. Such certificates shall be made in duplicate, bound together in books in numerical order and filed in the office of the treasurer; provided, that after one (1) such certificate has been issued no further delinquency certificate shall be issued for subsequent instalments of the same assessment, except as hereinafter provided, and whenever any subsequent instalment shall thereafter become delinquent the treasurer shall so mark the same in the instalment docket and add the penalty thereto, as hereinbefore provided, and the same shall draw interest at the rate of ten per cent (10%) per annum from date of delinquency until the end of the month in which it is paid.

[50-1739, added 1967, ch. 429, sec. 325, p. 1249.]

50-1740. DELINQUENT CERTIFICATE REGISTER. Within twenty (20) days after preparing and issuing any delinquency certificate the treasurer shall enter the same in a book to be kept by said treasurer known as "Local Improvement District Delinquency Certificate Register," which register shall contain in proper columns, the number of the assessment, the name of the district in which assessed, name of the person to whom assessed, if known, description of the property sold, corresponding with the description in the certificate and the assessment roll, amount of assessment, penalty, and the treasurer must regularly number each entry in said register on the margin of said book and put a corresponding number on each original and duplicate delinquency certificate. Such register must contain blank spaces following each entry of a delinquency certificate therein, in which may be entered the name of an assignee thereof, the date of such assignment and the amount paid the assignee, the name of a redemptioner thereof, the date of such redemption and the amount paid by such redemptioner. Such book or register shall be retained by the treasurer and become a part of the records of his office.

From and after entry in such register and until two (2) years from its date, any such certificate, unless redeemed, may be purchased from the treasurer in the manner hereinafter provided.

[50-1740, added 1967, ch. 429, sec. 326, p. 1249.]

50-1741. ASSIGNMENT OF DELINQUENT CERTIFICATES. Whenever any person shall tender to the treasurer in cash the amount of any such certificate and interest thereon at the rate of ten per cent (10%) per annum from date of such certificate to the end of the month in which such purchase is made, together with any subsequent instalments then due with penalties and interest thereon, the treasurer shall assign such delinquency certificate to the purchaser by making and executing for and on behalf of the municipality the blank assignment on both the original and duplicate thereof, and shall deliver the original certificate so assigned to the purchaser. Whenever the purchaser shall be required to pay subsequent assessments in addition to the amount of such delinquency certificate, the fact of such payment and the amount thereof including penalty and interest, shall be indorsed on the original and duplicate certificate so assigned. Thereafter the treasurer shall immediately make the proper entries showing such assignment in the "Local Improvement District Delinquency Register," and in the "Instalment Docket"; provided, that past due interest coupons and past due bonds of the local improvement district for which such certificate was issued shall be received by the treasurer, at par and accrued interest in payment of such certificates. Such bonds and coupons shall be received by the treasurer, at par and accrued interest in payment of such certificates. Such bonds and coupons shall be forthwith canceled by the treasurer.

[50-1741, added 1967, ch. 429, sec. 327, p. 1249.]

50-1742. FORM OF ASSIGNMENT -- ASSIGNMENT BY PURCHASER. The assignment prescribed by the preceding section must be substantially in the following form, and indorsed on the certificate:

ASSIGNMENT BY TREASURER

State of Idaho ss.
Municipality

For and in consideration of the sum of \$.... paid to said municipality, the receipt whereof is hereby acknowledged, I do hereby assign to whose post-office address is all the right, title and interest of the said municipality in and to the within and foregoing delinquency certificate.

In witness whereof, I have hereunto set my hand at, Idaho, this day of,

.....
Treasurer of the municipality of
.....

Such delinquency certificate may be assigned by the purchaser; provided, that such assignment must be attached to the original delinquency certificate and a duplicate of such assignment must be delivered to the treasurer who must attach the same to the duplicate delinquency certificate in his office.

The assignment of any delinquency certificate by the purchaser thereof or any assignee of such purchaser must be executed in duplicate and acknowledged as provided by law in the conveyance of real property and such assignment must be substantially in the following form, to wit:

"For value received, I hereby assign to whose post-office address is, all my right, title and interest in and to delinquency certificate No., issued by the treasurer of, Idaho, on account of delinquent local improvement district assessments for the year on the property described in said certificate.

In witness whereof, I have hereunto set my hand this day of,

....."
(acknowledgment)

[50-1742, added 1967, ch. 429, sec. 328, p. 1249; am. 2002, ch. 32, sec. 23, p. 60.]

50-1743. REDEMPTION. At any time within two (2) years from the date of any delinquency certificate, the owner of the property described therein, or any one on his behalf, may redeem such property by paying to the treasurer the amount stated in such certificate together with interest thereon at the date [rate] of ten per cent (10%) per annum, from date thereof to the last day of the month in which such redemption is made. Thereupon the treasurer shall issue to the redemptioner a certificate of redemption which shall state the name of the redemptioner, the date of redemption, the number of the certificate so redeemed, the description of the property contained therein, and the name of the district for which said certificate was issued. In case said certificate has not been assigned, the treasurer shall note such upon the original and duplicate delinquency certificate; if assigned upon the duplicate certificate the fact that the same has been redeemed, the date of redemption and shall note the same upon the "Local Improvement Delinquency Certificate Register" and the "Local Improvement Instalment Docket"; provided, that no redemption of any such certificate shall be allowed unless all assessments which have become due subsequent to the one for which said delinquency certificate shall have been issued with penalties, and interest at the rate of ten per cent (10%) per annum from date of said delinquency to the end of the month in which the same is redeemed, shall be paid, which fact together with the amount paid shall be stated upon the redemption certificate. The money received from the redemption of any property described in a certificate which has been assigned shall be deposited by the treasurer to the credit of the person named in the last assignment of such certificate. The treasurer shall thereupon give notice to such person at the address shown by the record of such deposit, and such person shall thereafter be paid the same by the treasurer upon surrender of such certificate to the treasurer who shall mark the same "Paid" and hold it as a voucher.

[50-1743, added 1967, ch. 429, sec. 329, p. 1249.]

50-1744. DEED. If the property described in any delinquency certificate is not redeemed within two (2) years from the date thereof, the treasurer, after having given notice hereinafter required, shall issue a deed thereto to the municipality, or if the same has been assigned as hereinbefore provided, then to the person holding the original delinquency certificate under assignment, upon request therefor, and upon the delivery to the trea-

surer of such original certificate and filing proof of having given notice as required by the treasurer before making a deed to the municipality. Such deed shall recite substantially the matter contained in the certificate and that no person redeemed the property within the time allowed, by law, for its redemption. It shall be signed and acknowledged by the treasurer in the manner required, by law, to entitle the same to be recorded under the laws of this state; provided, that such deed shall not be issued to an assignee until he has paid all subsequent instalments and assessments then delinquent or due upon the property described in the delinquency certificate, together with the penalties and interest thereon. Such deed to an assignee shall be made subject to all unpaid instalments not then due.

[50-1744, added 1967, ch. 429, sec. 330, p. 1249.]

50-1745. NOTICE OF EXPIRATION OF TIME OF REDEMPTION. The treasurer shall, at least one (1) month and not more than three (3) months before the expiration of the time of redemption of any property, serve or cause to be served, a written or printed, or partly written and partly printed notice on the person or persons in the actual possession or occupancy of such land or lots, and shall also, within the same time, serve upon or mail to, the person in whose name the same stands upon the assessment records in the county assessor's office, a copy of said notice; which notice shall state when the delinquency certificate was made, in whose name the property was assessed, the description of the land or lots, the name of the local improvement district for which assessed, the amount of the assessment or instalment, and when the time of redemption will expire. The treasurer shall at the same time send a similar notice, by mail, to each mortgagee or other holder of a recorded lien against such land, in each case where such mortgagee or lienholder has previously filed in the office of the treasurer a written request for such notice and paid the fee therefor, which request shall include the name and address of the mortgagee, the name of the reputed owner of the land, a description of the land and the date of the expiration of the mortgage or lien; no notice need be sent after the date of expiration, unless a further request therefor be duly filed. If the mortgagee or lienholder shall furnish a duplicate form of request for that purpose the treasurer shall certify thereon to the filing of the request and deliver the same to the party filing it. If there is no person in actual possession or occupancy of such land or lot and if the persons in whose name it stands, upon diligent inquiry cannot be found in the state, then the treasurer shall, within the same time, post or have posted, a copy of said notice in a conspicuous place upon said land or lots and in a substantial manner.

Whenever any notice is mailed, as herein required, the fact that the addressee does not receive it, shall not in any manner invalidate or affect the proceedings herein provided.

[50-1745, added 1967, ch. 429, sec. 331, p. 1249.]

50-1746. PROOF OF NOTICE. The treasurer shall, before issuing any deed to the municipality, make and file his affidavit showing a full compliance with the requirements of the preceding section as to giving notice of the expiration of the period of redemption; before issuing a deed to the holder of any delinquency certificate, the treasurer shall require that affidavits be filed showing a complete compliance with the provisions of the previous section as to giving such notice. Such proof shall be filed in the office of the

treasurer and remain a permanent record in such office. Any person making a false affidavit as to any fact required herein shall be guilty of perjury.

[50-1746, added 1967, ch. 429, sec. 332, p. 1249.]

50-1747. EFFECT OF DEED AS EVIDENCE. The matters recited in the delinquency certificate must be recited in the deed and such deed duly acknowledged or proved shall be prima facie evidence: (1) that the improvement district was created, the assessment made and the work and improvement done in the manner provided by law; (2) that all notices were given, all hearings were had, orders made and resolutions and ordinances passed and adopted required by law, and that all the proceedings up to the execution and delivery of such deed were had and done in the manner required by law; (3) that the assessments were not paid, the delinquency entries were properly made and delinquency certificate properly issued, as prescribed by law, and by the proper officer; (4) that the property was not redeemed, that the notice required to be given before deed was taken was properly given as required by law, and that the person who executed the deed was the proper officer.

[50-1747, added 1967, ch. 429, sec. 333, p. 1249.]

50-1748. DELINQUENCY CERTIFICATE FOR SUBSEQUENT INSTALMENTS. Whenever any delinquency certificate has been assigned, as hereinbefore provided, and the time for redemption has expired and there are outstanding against the property covered by said certificate, any delinquent instalments subsequent in time to the instalment for which the property was sold, then the treasurer shall issue to the municipality a delinquency certificate for such past due instalments in the same manner, as hereinbefore provided, and shall cancel the previous delinquency certificate and the same shall be of no further force and effect. Such delinquency certificate for subsequent instalments may be assigned in the same manner, as hereinbefore provided, and have the same force and effect.

[50-1748, added 1967, ch. 429, sec. 334, p. 1249.]

50-1749. FEES OF TREASURER. The treasurer shall receive the following fees, which, when paid, shall be credited to the general fund of the municipality: for issuing any delinquency certificate twenty-five cents (25¢) to be included in the amount of the certificate; for making any deed one dollar (\$1.00), to be paid by the person to whom made; for giving notice to a mortgagee or lienholder fifty cents (50¢), to be paid by such person; for giving notice of expiration of period of redemption one dollar (\$1.00). In all cases where the property is deeded to the municipality the fees shall be charged to the amount for which the deed is taken and shall be paid upon the sale of the property, or the sale of the delinquency certificate.

[50-1749, added 1967, ch. 429, sec. 335, p. 1249.]

50-1750. SUIT TO QUIET TITLE. Whenever the necessary costs and attorney's fees have been advanced by the holders of the bonds of the district or any prospective purchaser or other person, it shall be the duty of the council of such municipality to cause the attorney to commence suit to quiet title to the property described in said deed in the name of the municipality and to secure the possession of the property; provided, that the property de-

scribed in any number of tax deeds so made to the municipality and against any number of owners of property may be included in the same suit.

[50-1750, added 1967, ch. 429, sec. 336, p. 1249.]

50-1751. SALE OF PROPERTY DEEDED TO MUNICIPALITY. At any time after acquiring title and possession of any property, as hereinbefore provided, the municipality may sell such property to any purchaser upon receiving therefor a sum not less than the amount for which the property was sold to the municipality and by the payment of all instalments of assessments subsequent to the one (1) for which such property was sold and then due together with the penalties and interest thereon. The purchaser shall take such property subject to any unpaid general taxes and assessments and to all local improvement district instalments not then due, and the municipality shall thereafter collect such instalments in the manner provided by this code. When such purchase is made and the money paid therefor, the municipality shall issue a deed to the purchaser signed by the mayor and attested by the clerk, which deed shall be executed and acknowledged in the manner required, by law, to entitle the same to be recorded under the laws of this state.

In selling such property and in conveying title thereto compliance with the procedures set forth in [chapter 14, title 50](#), Idaho Code, shall not be required, but no conveyance under this section shall be valid unless it be approved by an affirmative vote of one-half (1/2) plus one (1) member of the full city council.

[50-1751, added 1967, ch. 429, sec. 337, p. 1249; am. 1973, ch. 61, sec. 1, p. 101.]

50-1752. SALE OF PROPERTY AFTER MATURITY OF BONDS. Within thirty (30) days after the maturity of the last instalment of any issue of bonds of a local improvement district, if any such bonds or interest coupons shall remain unpaid, any property remaining unsold, to which the municipality has taken title by reason of assessment of such improvement district, shall be appraised and immediately after said appraisal such property shall be offered for sale by giving notice of the time and place of sale thereof by publication of such notice in a newspaper published in the municipality for ten (10) consecutive issues if a daily paper, or in two (2) consecutive issues if a weekly paper, or if there be no newspaper published in such municipality then in a newspaper having general circulation therein, the date of sale to be not less than twenty (20) days from the date of the first publication of such notice. At the time and place designated in the notice the treasurer shall offer such property for sale to the highest bidder, but no sale shall be made for less than the appraised value. If no bid be received for a sum equal to or greater than the appraised value, then the sale may be postponed for not to exceed thirty (30) days, and shall be readvertised, and at the time to which such sale was postponed shall again be offered for sale and sold to the highest bidder. Upon the sale of any property and the payment therefor, a deed shall be executed to the purchaser in the same manner, as provided for the execution of deeds in section [50-1751](#).

[50-1752, added 1967, ch. 429, sec. 338, p. 1249.]

50-1753. DISPOSITION OF FUNDS. All money received by the treasurer on account of the payment of assessments or instalments thereof, the assignment

or redemption of delinquency certificates, or for rents, issues and profits, or from the sale of any property, title to which is held by the municipality for the benefit of any local improvement district, less any expenses of securing possession of said property, or for the care and operation and sale of the same, shall be deposited to the credit of the interest fund and bond fund of the local improvement district, in the same proportion as the assessment or instalments for which the property was taken. Any money left in a local improvement district interest or bond fund or any money derived from the rental or sale of any real property acquired by the municipality through the sale for delinquent assessments or instalments shall, after all warrants, bonds and coupons of said district have been paid in full, be credited to the general fund of the municipality.

[50-1753, added 1967, ch. 429, sec. 339, p. 1249.]

50-1754. DELINQUENT CERTIFICATE NOT ASSIGNABLE DURING PENDENCY OF ACTION. No certificate of delinquency as hereinbefore provided, shall be assigned, or any property sold, to which the municipality has taken a deed, on account of any assessment, or instalment thereof, during the pendency of any proceeding in court affecting the validity of such assessment.

[50-1754, added 1967, ch. 429, sec. 340, p. 1249.]

50-1755. DUTIES OF OFFICERS. When the council shall decide that it is to the best interest of the municipality that the duties in this code designated to be performed by the treasurer should be done and performed by the clerk of such municipality, they may at their option, by resolution, duly presented and approved by such council assign such duties to the clerk of such municipality; provided, that the duty of receiving any funds collected by the clerk and the depositing and disbursing of such funds by order of the council shall always be and remain the duty and responsibility of the treasurer; the council shall, in said resolution, devise a proper system or plan whereby the clerk may pay to the treasurer all moneys collected by him and take receipts therefor.

[50-1755, added 1967, ch. 429, sec. 341, p. 1249.]

50-1762. LOCAL IMPROVEMENT GUARANTEE FUND -- CREATION OF FUND. Any municipal corporation, including chartered municipal corporations, may by general ordinance of appropriation or by levy of a tax of not to exceed two hundredths percent (.02%) of the market value for assessment purposes on all taxable property within the municipal corporation in any one (1) year, or by appropriation from such other sources as may be determined by the council, create a fund for the purpose of guaranteeing to the extent of such fund, the payment of bonds or warrants and interest thereon, hereafter issued against any local improvements therein; provided, that such sum so levied or appropriated in any year shall be more than sufficient to pay the outstanding warrants of said fund and to establish therein a balance, which combined levy and appropriation in any one (1) year shall not exceed five percent (5%) of the outstanding obligations thereby guaranteed; provided, further, that the council shall not levy any tax as herein provided when the amount of moneys in the "Local Improvement Guarantee Fund" equals ten percent (10%) of the total outstanding obligations thereby guaranteed. The tax levies herein authorized and directed shall be additional to and, if need be, in excess of

any and all statutory and charter limitations. The fund so created shall be designated "Local Improvement Guarantee Fund."

[50-1762, added 1967, ch. 429, sec. 347, p. 1249; am. 1995, ch. 82, sec. 25, p. 235.]

50-1763. BONDS, WARRANTS AND COUPONS, WHEN PAID OUT OF FUND -- NON-PAYMENT FOR WANT OF FUNDS -- INTEREST. Whenever any municipality has established such "Local Improvement Guarantee Fund," any bond, warrant or coupon drawn against any local improvement fund is presented to the municipality for payment and there is not sufficient amount in said local improvement fund against which to draw to pay the same, unless otherwise requested by the holder, payment therefor shall be made by warrant drawn against the "Local Improvement Guarantee Fund." Such warrants when presented to the city treasurer for payment, if not paid, shall be registered and draw interest at a rate as may be fixed by the council. Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the "Local Improvement Guarantee Fund" herein provided, and the municipality shall not be liable to any holder or owner of such bond or warrant for any loss to the guarantee fund occurring in the lawful operation thereof by the municipality.

[50-1763, added 1967, ch. 429, sec. 348, p. 1249; am. 1980, ch. 61, sec. 10, p. 123.]

50-1764. SUBROGATION OF MUNICIPALITY TO RIGHTS OF PAYEE -- SURPLUS FUNDS -- PAYMENT INTO FUND -- PREFERENCES. Whenever there shall be paid out of the "Local Improvement Guarantee Fund," any sum on account of principal or interest of a local improvement fund or warrant, the municipality 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 policies thereof, or the assessment underlying the same, shall become part of the guarantee fund. There shall be paid into the guarantee fund any surplus remaining in any local improvement fund after the payment of all outstanding bonds or warrants, payable out of such local improvement fund. Bonds or warrants guaranteed by such fund shall have no preference except in the order of presentation for payment.

[50-1764, added 1967, ch. 429, sec. 349, p. 1249.]

50-1765. MAINTENANCE AND OPERATION AND SOURCES OF FUND. The council shall prescribe rules and regulations for the maintenance and operation of the guarantee fund not inconsistent herewith. After the creation of such fund, all money derived from the assignment of delinquency certificates, redemptions, sale of property under foreclosure for delinquent assessments, or from the rent or sale of property, title to which has been obtained by the municipality pursuant to this code, shall be paid into the "Local Improvement Guarantee Fund," and all delinquency certificates issued and such property acquired shall be held by the municipality for the benefit of such guarantee fund. Money from the guarantee fund may be used to redeem property subject to local improvement assessments from general tax delinquencies, underlying bonds or warrants guaranteed by the fund, or to purchase such

property as [at] county tax sales or otherwise, from the county for the purpose of protecting the guarantee fund. After so acquiring title to real property, the municipality may lease or sell and convey the same for such price and on such terms as may be determined by the council, and any provision of law, charter or ordinance to the contrary notwithstanding, and all proceeds resulting therefrom shall belong to and be paid into the guarantee fund, provided, however, that in any event the municipality purchases such property at tax sale or otherwise it shall not be sold for a lesser sum than the city paid therefor.

[50-1765, added 1967, ch. 429, sec. 350, p. 1249.]

50-1766. REPLENISHMENT OF FUND -- WARRANTS -- ISSUANCE AGAINST FUND -- TAX LEVY. Whenever there is not a sufficient amount of cash in said "Local Improvement Guarantee Fund," at any time to pay any and all warrants, together with interest thereon, drawn against said fund, the council may replenish said "Local Improvement Guarantee Fund" by transferring or appropriating to it, moneys from the general fund of the municipality or other available sources, as may be determined by said council, subject, however, to the limitations herein prescribed. Warrants drawing interest, as herein provided, may be issued against said "Local Improvement Guarantee Fund" to meet any financial liability against it; but at the time of making its next annual levy the municipality shall provide for the levy of a sum sufficient with other resources of the guarantee fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed two hundredths percent (.02%) of the market value for assessment purposes on taxable property within the municipal corporation in any one (1) year.

[50-1766, added 1967, ch. 429, sec. 351, p. 1249; am. 1995, ch. 82, sec. 26, p. 235.]

50-1767. BONDS AND WARRANTS -- REVENUES FROM WHICH PAYABLE. The holder or owner of any local improvement bond or warrant shall have no claim thereon against the municipality by which the same is issued, except to the extent of the funds created and received by assessments against the property within any local improvement district and to the extent of his pro rata share of any "Local Improvement Guarantee Fund," authorized and created under the provisions of this code.

[50-1767, added 1967, ch. 429, sec. 352, p. 1249.]

50-1768. BONDS PAYABLE FROM FUND. Whenever a municipality has created a "Local Improvement Guarantee Fund," under the provisions of [this act,] any local improvement district bonds issued thereafter shall provide that the principal sum of such funds [bonds] and the interest thereon shall be payable out of the local improvement fund created for the payment of cost and expenses of the improvement or out of any "Local Improvement Guarantee Fund," duly authorized and created, and not otherwise.

[50-1768, added 1967, ch. 429, sec. 353, p. 1249.]

50-1769. EXCESS IN FUND -- DISPOSITION. When a "Local Improvement Guarantee Fund" duly created in any municipality exceeds in amount of moneys held therein ten per cent (10%) of the total outstanding obligations thereby

guaranteed, then the council, may, by ordinance, authorize the treasurer or appropriate official of said municipality to return and pay such said excess or any part thereof to the general fund of said municipality to return and pay such said excess or any designated part thereof all or any part of local improvement district bonds of said municipality then issued and outstanding or to be issued. The passage of such ordinance shall require the affirmative vote of at least three-fourths (3/4) of the full council.

[50-1769, added 1967, ch. 429, sec. 355, p. 1249.]

50-1770. UNPATENTED LANDS -- ASSESSMENT FOR IMPROVEMENTS. Whenever any of the public lands are embraced within the boundaries of any city of this state, and the city authorities deem it necessary that a sewer system, street improvements or other public improvements of any kind, authorized by general law, be made therein for the preservation of the health, accommodation or convenience of such inhabitants, the city council may, by ordinance, provide for the assessment of a portion of the expense of such improvement against unpatented lots, blocks or parcels of land, and the improvements thereon, embraced within the limits of such city, to the same extent and amount as though such lands were patented. When patents issue for such lands the lien of the assessment against each lot, piece and parcel of land shall attach immediately and be enforced and collected as other taxes, or as provided, by ordinance, of such city; provided, this section shall not apply nor authorize the creation of any lien upon state lands.

[50-1770, added 1967, ch. 429, sec. 48, p. 1249.]

50-1771. RESERVE FUND AUTHORIZED. For the purpose of securing the payment of the principal of and interest on an issue of local improvement bonds, notes, warrants, or other short-term obligations, the council or other governing body of a governmental entity may create a reserve fund for each obligation in addition to or in lieu of a guarantee fund. The reserve fund shall be separate and apart from any guarantee fund and in an amount not exceeding ten per cent (10%) of the principal amount of the bonds, notes, or warrants issued. The cost of a reserve fund may be included in the cost and expense of any local improvement for assessment against the property in the local improvement district to pay the cost, or any part thereof. The reserve fund may be funded from the proceeds of the bonds, notes, warrants, or other short-term obligations, from special assessment payments, or from any other money legally available therefor. Reserve fund balances in excess of ten per cent (10%) of the principal amount of the bonds outstanding shall be used to reduce the annual assessments of those participants in the respective local improvement district whose prior assessments have been paid. Whenever the reserve fund is insufficient to meet claims for payment of principal and interest against the reserve fund, the governmental entity may appropriate funds from such other legally available sources as may be determined by the council or governing body of such governmental entity.

[50-1771, added 1988, ch. 326, sec. 1, p. 988.]

50-1772. COMMERCIALY REASONABLE CREDIT ASSURANCES. If requested by the petitioners for a local improvement district, and in addition to or in lieu of a reserve or guarantee requirement, the council or other governing body of a governmental entity may impose such commercially reasonable credit

assurances as it may deem necessary as a condition of approving a local improvement district. If commercially reasonable, such assurances may include guarantees, letters of credit or bonds in amounts up to the total amount of indebtedness.

[50-1772, added 1999, ch. 291, sec. 9, p. 730.]