

ORDINANCE NO. 1694, SERIES 1954**AN ORDINANCE REGULATING THE CONSTRUCTION AND REPAIR OF CURBS AND SIDEWALKS; MAKING CERTAIN ACTS OR OMISSIONS UNLAWFUL; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.**

The city of La Grande does ordain as follows:

SECTION 1.

(a) The term "person" as used in this ordinance shall mean any individual, individuals, copartnership, firm, association, or corporation of any kind or nature, whether of foreign or domestic origin.

(b) The use of the pronoun of any gender shall include masculine, feminine, or neuter gender.

(c) City manager shall mean the city manager of the city of La Grande or any lawfully appointed subordinate acting in the capacity as such a subordinate or under the order of the city manager.

SECTION 2. If any clause, sentence, paragraph, section, or portion of this ordinance shall for any reason be adjudged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this ordinance, but shall be confined in its operation to the clause, sentence, paragraph, section, or portion of this ordinance directly involved in the controversy in which the judgment is rendered.

SECTION 3. It is hereby made the duty of all owners of land adjoining any street in the city of La Grande to construct, reconstruct, and maintain in good repair the curbs and sidewalks in front of said land. The city commission shall have the power and authority to determine the grade and width of all sidewalks, the material to be used, and the specifications for the construction thereof upon any street or part thereof or in any district in said city.

SECTION 4. If the owner of any lot or part thereof, or parcel of land, shall suffer any sidewalk along the same to become out of repair, it shall be the duty of the city manager to post a notice on the adjacent property, headed "Notice to Repair Sidewalk," in letters not less than one inch in height, and said notice shall in legible characters direct the owner, agent, or occupant of said property immediately to repair the same in a good and substantial manner, and the city manager shall file with the recorder-treasurer an affidavit of posting of such notice, stating the date when and the place where the same was posted. The

recorder-treasurer shall upon receiving the affidavit of the city manager, send by mail a notice to repair said sidewalk to the owner (if known) of such property, or to the agent (if known) of the owner, and directed to the post office address of such owner or agent, where such post office address is known to the recorder-treasurer, and if such post office address be unknown to the recorder-treasurer, such notice shall be directed to such owner or agent at La Grande, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property shall not render void said notice, but in such case the posted notice shall be sufficient.

SECTION 5. The owner, agent, or occupant before making such repairs shall obtain from the city manager a permit so to do, which shall prescribe the kind of repair to be made, the material to be used and specification therefor; and the owner, agent, or occupant shall make said repairs within 20 days from the date of posting of said notice. If the owner, agent, or occupant of any such lot or part thereof or parcel of land shall fail, neglect, or refuse to make the sidewalk repairs within the time designated, the city manager shall make the same and keep an accurate account of the cost of the labor and materials in making the repairs in front of each lot or parcel of land, and shall report monthly to the commission the cost of such repairs, and the description of the lot or part thereof or parcel of land, fronting on the sidewalk upon which such repairs are made.

SECTION 6. The commission shall inspect the reports of sidewalk repairs and the cost thereof made by the city manager, and if it deems the same to be reasonable it shall approve the same. The commission shall at least once each year by ordinance assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired, the cost of making such repairs as approved by the commission and 10 percent additional to defray the cost of notice, engineering, and advertising. In each case, all such assessments may be combined in the assessment roll and the same shall be entered on the docket of city liens and collected in the manner hereinafter provided for.

SECTION 7. Monies to repair sidewalks when the repairs shall be made by the city manager under this ordinance may at the discretion of the commission be advanced from the general fund to be reimbursed by the special assessment when collected.

SECTION 8. It is not only the duty of all owners of land within the city to keep in repair all sidewalks, constructed or existing in front of, along, or abutting upon their respective lots or parts thereof and parcels of land, but such owners are hereby declared to be liable for all damages to whomsoever resulting or arising from their fault or negligence in failing to put any such sidewalk in repair;

and no action shall be maintained against the city of La Grande by any person injured through or by means of any defect in any sidewalk.

SECTION 9. Property owners upon all streets shall construct concrete sidewalks, said construction to be in accordance with the plan, estimates, and specifications approved by the city manager. No wooden sidewalks shall hereafter be built or constructed upon any street, except that a wooden sidewalk may be constructed in cases where it is apparent to the city manager that alterations will be made upon the adjacent property at an early date which will require changing of the sidewalk or where it is not practicable to construct a concrete sidewalk.

SECTION 10. The docket of city liens is a book in which must be entered the following matter in relation to liens for repair and construction of sidewalks and curbs: the date of the entry, the number or letter of each lot assessed and number or the letter of the block of which it is a part, and a description of each unplatted tract or parcel of land, the sum assessed upon each lot or part thereof, or tract of land, and the name of the owner, or that the owner is unknown; provided, that failing to enter the name of the owner or mistake in the name of the owner, or the entry of a name other than that of the true owner in such lien docket, shall not render void any lien, nor in any way affect the lien of the city of La Grande on the property described in such lien docket.

SECTION 11. The docket of city liens is a public writing, and from the date of the entry therein of a lien the sum as entered is hereby declared to be a tax levied and a lien upon such lot, part thereof, or tract of land, which liens shall have priority over all other liens and encumbrances whatsoever thereon, and the sum or sums of money assessed for any repair or construction of sidewalks and curbs, entered upon such lien docket, shall be due and payable from the date of such entry, and if not paid, as provided by law, within 10 days from the date of such entry, thereafter the same shall be delinquent and shall bear interest at the legal rate.

SECTION 12. When a lien upon any lot or part thereof becomes delinquent, any person having a lien thereon by judgment, decree, or mortgage, or having purchased the same for any delinquent tax or assessment, may at any time before the sale of such lot or part thereof, pay the same, and such payment discharges the property from the effect of the lien, and the amount of such delinquent taxes and all accruing costs and charges, if any, when so paid, is thereafter to be deemed a part of such lien creditor's judgment, decree, mortgage, or tax lien, as the case may be, and shall bear interest and may be enforced and collected as a part thereof.

If the holder of any tax lien or claim pays off such lien, he may thereafter present the receipt to the officer who shall have charge of the tax docket containing the record of the tax sale at which he purchased such property, and thereupon such officer shall make a note of the amount of such lien so paid by such purchaser, and shall exact repayment thereof, together with interest as above prescribed, from any person making redemption from such sale; and no redemption shall discharge the property from the effect of such sale which shall not include the amount of such assessment paid by the purchaser after the purchaser shall have presented the receipt as above prescribed.

SECTION 13. If within 30 days from the date of the entry of a lien in the docket of city liens, the sum assessed upon any lot or part thereof or tract of land is not wholly paid to the recorder-treasurer, and a duplicate receipt filed therefor with the recorder-treasurer, or bonded as provided by law, the recorder-treasurer shall thereafter prepare a list in tabular form, made up from the docket of city liens, describing each lien which is delinquent, the name of the person to whom assessed, and a particular description of the property, the amount of the lien, and other facts necessary to be given.

SECTION 14. The recorder-treasurer shall thereupon proceed to collect the unpaid liens named in such list by advertising and selling such lots or tracts in the manner now provided by law for the sale of real property on execution, except as herein otherwise provided. A sale of real property conveys to the purchaser subject to redemption as herein provided, all estates, interest, liens, or claims therein or thereto of any person or persons whomsoever, together with all rights and appurtenances thereunto belonging. No levy upon such lots or parcels of land shall be required except that a notice shall be posted four weeks before said sale upon every lot or parcel assessed to an unknown owner.

SECTION 15. The recorder-treasurer shall enter in columns provided for that purpose in the list prepared the date of sale, the name of the purchaser, the amount paid for each parcel of property sold. The recorder-treasurer shall give a receipt to each person paying an assessment to said delinquent list prior to the sale thereof, and such receipt must state separately the assessment, interest, and costs collected; and a duplicate of said receipt shall be filed with the recorder-treasurer.

SECTION 16. Real property when sold for, or to satisfy a delinquent lien, must be sold for lawful money of the United States, and not otherwise; and any one applying or seeking to redeem property so sold, must pay or offer to pay the sum necessary in such lawful money, and not otherwise.

SECTION 17. The recorder-treasurer shall immediately after having sold any real property upon such list, make and deliver to the purchaser a certificate of sale of the property so sold, setting forth therein the object for which the sale was made, a description of the property sold, a statement of the amount it sold for, the repair or construction for which the assessment was made, the year in which the tax was levied, the amount of such tax or assessment, the name of the purchaser, and that the sale is made subject to redemption within three years from the date of the certificate, and then deliver such certificate to the purchaser.

SECTION 18. The recorder-treasurer shall within three days after sale return the said delinquent list with all collections and sales noted thereon, and shall thereupon make entries thereof in the docket of city liens. Thereafter, no transfer or assignment of any certificate of purchase of real property sold shall be deemed valid, unless an entry of such transfer or assignment shall have been noted by the recorder-treasurer in said lien docket.

SECTION 19. The owner, or his legal representatives, or his successor in interest, or any person having a lien by judgment, decree or mortgage, or owner of a tax lien, on any property so sold may redeem the same upon the conditions provided as follows:

Redemption of any real property sold for a delinquent assessment may be made by paying to the recorder-treasurer at any time within three years from the date of the certificate of sale the purchase price and 10 percent thereof as penalty, and interest on the purchase price at the rate of 10 percent per annum, from the date of such certificate. Where redemption shall be made by the holder of a tax lien, he shall have the right to have such redemption noted upon the record of his lien in like manner and with like effect as hereinafter prescribed. Provided, however, that if redemption be made within three months from the date of sale, the penalty to be paid shall be 5 percent. Such redemption shall discharge the property so sold from the effect of such sale, and if made by a lien creditor, the amount paid for the redemption shall thereafter be deemed a part of his judgment, decree, mortgage, or tax lien, as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

SECTION 20. After the expiration of three years from the date of such certificate, if no redemption shall have been made, the recorder-treasurer shall execute to the purchaser, his heirs or assigns, a deed of conveyance, containing a description of the property sold, the date of the sale, a statement of the amount bid of the cost of the repair or construction of a sidewalk or curb for which the assessment was made, of the year in which the assessment was levied, that the assessment or tax was unpaid at the time of the sale, and that no redemption has been made, and need contain no further recital of the proceedings prior to the

sale. The effect of such deed shall be to convey to the grantee therein named the legal and equitable title in fee simple to the real property in such deed described. Such deed shall be prima facie evidence of title in such grantee, and that all proceedings and acts necessary to make such deed in all respects good and valid have been had and done, and such prima facie evidence shall not be disputed, overcome, or rebutted, or the effect thereof avoided, except by satisfactory proof of either:

- (1) Fraud in making the assessment, or in the assessment or collection of the tax.
- (2) Payment of the assessment or tax before sale, or redemption after sale.
- (3) That payment or redemption was prevented by fraud of the purchaser.
- (4) That the property was sold for an assessment or tax for which neither said property nor the owner thereof, at the time of sale, was liable, and that no part of the assessment or tax was assessed or levied upon the property sold.

SECTION 21. Every action, suit, or proceeding which may be commenced for the recovery of land which shall have been sold by the recorder-treasurer of the city of La Grande, for any assessment or tax, or to quiet the title of the former owner, or his successors in interest, against such sale, or to set aside such sale, or to remove the cloud thereof, except in cases where the assessment or tax for which the land has been sold was paid before the sale, or the land redeemed as provided by law, shall be commenced within three years from the time of the recording of the deed executed by the recorder-treasurer, and not thereafter. And in any such action, suit, or proceeding, whether before or after the issuance of the deed, the party claiming to be the owner as against the party claiming under such sale, must tender with his first pleading in such case and pay to the court at the time of filing such pleading the amount of purchase price for which the lands were sold by the recorder-treasurer, together with the penalties prescribed by law at the time of such sale, and of all taxes and assessments levied or made upon or against the land, or any part thereof, which shall have been paid after such sale by the purchaser at such sale, or his heirs or assigns, together with interest thereon at the rate of 10 percent per annum from the respective times of the payment of such purchase price, taxes, and assessments by said purchaser, or his heirs or assigns, as the case may be, up to the time of the filing of such pleading, to be paid to such purchaser, his heirs or assigns, in case the right or title of such purchaser at such sale shall fail in such action, suit, or proceeding.

SECTION 22. No record need be kept of the mailing of any notice in this ordinance prescribed, and the failure to mail or a mistake in the mailing of, or a mistake in any such notice shall not be fatal when notice is posted or published as herein required.

SECTION 23. In any action, suit, or proceeding in any court concerning any assessment of property or levy of taxes authorized by the charter, or the collection of such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith shall be presumed to be regular and to have been duly done or taken until the contrary is shown.

Passed by the commission and approved by the city president June 9, 1954.

