

ORDINANCE NO. 225

An Ordinance providing for the construction and building of bulkheads or retaining walls and to fill in tide lands, mud flats, overflow lands and lowlands and raise them above the high tide line and to the established grade or grades within the City of Warrenton, stating the proposed plan of performing such work, the manner thereof, and providing for the issuing of negotiable bonds of the City of Warrenton therefor, specifying the maximum amount of bonds to be issued, the method of paying the same, by taxation or assessments, and submitting the matter to a vote of the resident freeholders, and declaring an emergency.

WHEREAS, the Common Council of the City of Warrenton has considered it expedient and advisable, in order to protect the health of the inhabitants of the City of Warrenton, and to prevent the noisome disease breeding stench that arise from the tide flats, and for the benefit and general welfare of the City of Warrenton, it is deemed necessary and proper that the tide lands, overflow lands and lowlands within the City be reclaimed by filling in the same to and above high tide line and to established grades within the City of Warrenton, and that bulkheads and retaining walls be constructed within the City at such place or places as may seem proper or convenient for the purpose of retaining and holding such or convenient for the purpose of retaining and holding such fills as the same shall from time to time be made or constructed and that the power and authority given to the City of Warrenton by this amendment to its Charter, including the construction of all necessary bulkheads and retaining walls and fills, and the issue and sale of all bonds to defray the expense thereof, and the establishment of improvement districts and letting and supervision of all contracts for reclaiming and filling in all or any portion of the tide lands, mud flats, overflow lands and lowlands of the City, and making the assessments, to defray the costs and expenses thereof, and issuing and selling bonds to pay the contractors for such filling, where the property owners avail themselves of the privilege of paying their assessments in installments, and all other acts necessary and proper to be done in carrying out the provisions of this act, except where herein otherwise specially provided, shall be exercised and performed as hereinafter provided by the Common Council of the City of Warrenton, therefore

THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS, AND BE IT ENACTED BY THE PEOPLE OF THE CITY OF WARRENTON:

That the Charter of the City of Warrenton, being an Act of the Legislative Assembly of the State of Oregon, which was approved February 11th, 1899, entitled "An Act to incorporate the City of Warrenton" as amended by an Act of said Legislative Assembly approved February 15th, 1901, and entitled "An Act to amend Sections 3, 5, 15, 48, 50, 57, 53, 58, 59, 88 and 34 of an Act entitled 'An Act to incorporate the City of Warrenton'", and subsequent amendments thereto, be and the same is hereby amended by adding the following provisions, to be known as Sections from 102 to 124, both included:

Section 102. The City of Warrenton is hereby authorized and empowered to construct, keep and maintain bulkheads or retaining walls in, upon, over, along, under, across or on any of the streets, alleys, or highways of the City of Warrenton that are now laid out and established or that may be hereafter laid out or established or secured either by dedication or condemnation or otherwise, and to construct and maintain the same upon any right of way therefore hereafter secured either by purchase, dedication or condemnation or in any other manner, which said bulkheads or retaining walls shall be of such length, dimensions, kind or character, and constructed at such place or places as the Common Council of the City of Warrenton shall from time to time determine and designate at and below the extreme high tide line on the shore or water frontages of the Columbia River and the Skipanon River above or below tides within the City, and for the purpose of constructing such retaining walls or bulkheads the City may acquire by purchase or condemnation or otherwise, such rights of way as in the judgment of the Common Council may be necessary or convenient for the construction and maintenance of the same.

Said Common Council shall have power and authority at any regular meeting thereof, in addition to the power heretofore granted to the said Common Council by the Charter of the City of Warrenton, to levy an additional tax not exceeding ten mills on the dollar in any one year, upon the taxable property of the City, which said tax shall be levied by resolution adopted by the Common Council of the City of Warrenton, at the time the Common Council shall levy taxes for general municipal purposes for the ensuing year, and such taxes shall be included in the general levy of taxes for that year and as made by the Common Council of the City of Warrenton, which tax shall be collected at the same time and in the same manner as other taxes of the City of Warrenton are collected, and when so collected, shall be kept in a separate fund and shall be used exclusively for the purpose of defraying the expenses of constructing such bulkheads and retaining walls and paying interest on bonds issued for that purpose and for retiring or redeeming such bonds, and in paying salaries of officers, servants and employees, and the general incidental expense in connection with said improvements. And to defray the costs and expenses of constructing said bulkheads or retaining walls, said Common Council may also from time to time, if required, issue and sell negotiable bonds of the City of Warrenton, running for a period of not less than twenty years, the aggregate amount of which bonds for the construction of such bulkheads or retaining walls shall not exceed the sum of \$200,000.00. All bonds issued and sold to raise funds for the construction of bulkheads or retaining walls shall provide that the same may be recalled and paid at the option of the city at par, at any time after the expiration of ten years from the date of issuance of the same. Provided, that nothing herein contained shall be construed to limit or restrict the amount of twenty year bonds that may be issued and sold from time to time to defray the costs and expenses of filling in tide lands, mud flats, overflow lands and lowlands, where the owners of property assessed to defray the costs and expenses thereof shall avail themselves of the privilege of paying assessments in ten equal installments as hereinafter provided; it being the express intention of this act that the costs and expenses of constructing the bulkheads shall be defrayed by general taxation or the issue and sale of bonds, but the costs and expenses of filling in and reclaiming the tide lands, mud flats, overflow lands and lowlands shall be by local special assessments levied upon each lot or parcel of land, or tract of water frontage, filled in according to the benefits resulting from the filling in and reclaiming of the same, including the filling in of the abutting streets and alleys. All bonds issued under this act shall bear such rate of interest as may be determined upon by the Common Council of the City of Warrenton, and not exceeding six per cent per annum, and all bonds issued to pay for filling in or reclaiming the tide lands, mud flats, overflow lands and lowlands, on account of persons owning property assessed for that purpose availing themselves of paying assessments in installments, shall provide that the same shall be redeemable at the option of the city at par, with accrued interest at any time after the expiration of ten years from the date of issue, and all bonds shall be signed by the Mayor and Auditor and Police Judge of the City of Warrenton, and the full faith and credit of the City of Warrenton shall be pledged to the payment of all bonds issued under this act.

No part of the expense of filling in or reclaiming any of the tide lands, mud flats, overflow lands, lowlands or water frontage, including the streets of any reclamation district (excepting the retaining walls or bulkheads) shall be paid from general taxation, but the whole expense of filling in and reclaiming such tide lands, mud flats, overflow lands, lowlands, or water frontage, in any district, including the streets and street crossings, and alleys thereof, shall be defrayed by special assessment upon the lots, lands and premises, inclusive of water frontage included within the special assessment district, to be constituted of the lands so filled in and benefited by the improvement, and the contract for any such improvement shall provide that the contractor shall look exclusively to such assessments and the funds to be derived therefrom, for payment for constructing the same, except whenever any of the owners of the lands assessed for such improvement shall ask for the privilege of paying his assessment in ten installments, as hereinafter provided, the Common Council, for and on behalf of the City of Warrenton, shall have power and authority to issue and dispose of negotiable bonds of the City of Warrenton from time to time equal in amount at the par value thereof to the amount remaining due the City of Warrenton on account of such persons so assessed having availed themselves of the privilege of paying such assessments in installments, and said bonds shall be payable

twenty years from date of issue, and draw interest at such rate as the Common Council shall determine, not exceeding six per cent per annum, payable annually, and provide that the same may be called at any time after two years from date of issue at par, plus the accrued interest, and all moneys paid to the City of Warrenton on account of installments of such assessments shall immediately be used in retiring such bonds.

Such bonds may be issued and sold at par direct to the contractor executing the work. The aggregate amount of such twenty year bonds so issued on account of installments shall not exceed \$200,000.00 at any one time, and such bonds, as well as the bonds issued to secure funds for constructing bulkheads or retaining walls, shall not be taken into computation in ascertaining the limit of indebtedness of the city, mentioned in Sections 31, 51, 89 and 101 of the Charter of the City of Warrenton. When the expenses of any fill shall be assessed against any lands belonging to the City or used for public buildings or public grounds, and exempt by law from such assessment, the amount of such assessment shall be paid by the Common Council into the fund set aside for the benefit of this department, payable out of the general fund.

Section 103. In case the Common Council of the City of Warrenton shall at any time desire to acquire any real property or water frontage within the city for a right of way upon or over any land or lands or water frontage, to construct or maintain any bulkhead or retaining wall across or upon such land or lands or water frontage, it may maintain an action in the Circuit Court of the State of Oregon for Clatsop County, against the owner or owners thereof for that purpose, and it shall not be necessary, in order to maintain any such action, to submit any question to a vote of the tax payers, inhabitants or voters of the city, or in case the Common Council should be unable to agree with the owner or owners of property desired for said purpose as to the amount to be paid for the appropriation thereof, the said Common Council shall by ordinance direct an action or actions to be instituted in the name of the City of Warrenton, in the Circuit Court of the State of Oregon for Clatsop County, to condemn and appropriate to the use of such city, such right of way, and it shall not be necessary in order to maintain any such action, to submit any question to a vote of the tax payers, inhabitants or voters of the city, and such action shall be commenced and prosecuted in the manner prescribed by the General Laws of the State of Oregon providing and regulating the mode of proceedings to appropriate land by private corporation.

Section 104. No contract for the construction of any bulkhead or retaining wall shall be let or entered into by the Common Council until plans and specifications for the same, and a complete and detailed estimate of the cost thereof shall have been made and filed with the City Auditor and Police Judge, and approved by resolution of the Common Council, in which resolution said Common Council shall specify and provide the time and manner of constructing and completing the proposed improvement, and all necessary matters relating to the execution and inspection and approval of the work and the time and manner of the payment of the contractor therefor.

All contract shall be let to the lowest responsible bidder after advertisement for bids, published in at least 2 issues in a weekly newspaper printed and published in the City of Warrenton, and no contract for any bulkhead or retaining wall shall be let at a price exceeding the estimated cost thereof. The Common Council shall provide for rejecting any and all bids. Provided, however, that whenever bids received by the said City of Warrenton for constructing any bulkhead or retaining wall shall exceed the estimated cost thereof, the Common Council of the City of Warrenton shall be, and is hereby authorized and empowered to enter into an agreement with any person or persons, contractor or contractors, firm, company or corporation, to construct said bulkhead or retaining wall, the City of Warrenton agreeing to pay for the construction of said bulkhead or retaining wall the cost price of all material and labor used in the construction thereof, plus ten per cent, which said ten per cent, together with the payment of all material and labor used in the construction of the aforesaid bulkhead or retaining wall, shall be payment in full for the construction of the same, except the cost of Surveying, and Superintendence by the Engineer in charge employed by the City of Warrenton which is not included in the above ten per cent as hereinbefore mentioned. The contractor entering into any contract for the construction of any bulkhead or retaining wall shall be required to give bonds with one or more sufficient sureties in such sum as the Common Council

may determine conditional for the faithful performance of the contract, and the contractor will pay all persons supplying labor or material in the performance of the same upon which bonds any person or persons supplying labor or material shall have a right to bring action against such principal and surety or sureties in the name of the City of Warrenton.

Section 105. Whenever the Common Council of the City of Warrenton shall consider it necessary to fill in or reclaim any of the tide lands, mud flats, overflowed lands, lowlands or water frontage in the City of Warrenton, in order to protect the health of the inhabitants of said city, the City of Warrenton is hereby given power and authority to fill in or reclaim any of the tide lands, mud flats, overflowed lands, lowlands, and water frontage, and the abutting streets within the said City of Warrenton to such depth or level as said Common Council shall deem proper, including all streets, alleys, parks, squares, lots, blocks, tracts, parcels of real estate, and water frontage, and may establish and lay out reclamation districts and provide for filling in such districts as said Common Council shall from time to time consider necessary and proper and defray the costs and expenses thereof by levying special assessments upon the lots, lands and premises, including the water frontage, franchises, rights of way and easements within each district so reclaimed, according to the benefits resulting to each lot, tract or parcel of land, tract of water frontage, right of way, franchise or easement within the district from the filling of the same or reclamation of the same, including the costs and expenses of filling in streets and intersections thereof within the district so reclaimed, and each lot, tract or parcel of land, including water frontage, right of way or franchise in each district shall be assessed such proportion of the entire costs and expenses of making the fill, including the filling of the streets and alleys, as the benefits resulting to such lot, tract or parcel of land, water frontage, right of way or franchise is proportionate to the benefit resulting to all such property from the improvement of such district. And provided further that any and all streets within any reclamation district may be filled into the same level or grade that the lots, blocks, tracts of land or water frontage in or to the full established grade of such street or streets, or to such depth or level below the established grade, as the Common Council shall deem proper and advantageous; and provided, further, that whenever the boundary of any district to be filled in shall be the line of any street which is to be filled in whole or in part, as of the improvement of the district, the lots, lands and premises, including water frontage abutting upon or adjacent to and specially benefited by the filling in of such street or portion thereof, may be included within the special assessment district and be assessed for its proportion of the cost of filling in such street according to the benefits resulting therefrom, although such lots, lands or premises or water frontage be not within the district to be filled in or reclaimed.

Section 106. Whenever the Common Council of the City of Warrenton shall deem it necessary in order to protect the health of the inhabitants of any portion of the city to fill in and reclaim any portion of the tide lands, mud flats, overflowed lands, lowlands or water frontage of the city, and to defray the cost thereof by special assessment they shall so declare the fact and their determination or intention to reclaim or fill the same by resolution, stating in general terms the nature and character of the fill and the elevation or level of the same, including that of the street or streets to be filled, and shall designate and describe the district to be filled in and reclaimed, and the district upon which the special assessment shall be levied to defray the costs and expenses thereof; and shall cause estimates of the expenses thereof, and specifications for the proposed improvement to be made and filed with the City Auditor and Police Judge. It shall be sufficient to describe in general terms the nature and character of the fill and the elevation and level thereof, including the elevation or level to which the streets are to be filled. Such resolution shall direct the City Auditor and Police Judge, upon the estimate of the costs and expenses thereof and specifications for the proposed improvement being filed with him, to cause notice of the intention of the Common Council to cause such fill to be made to be given publication in a weekly newspaper published in the City of Warrenton, which notice shall contain a statement of the improvement to be made in general terms and a statement of the district to be filled in and to be assessed, and a statement that an estimate of the costs of the improvement and specifications for the proposed work has been filed, and such notice shall be published in such paper for at least two issues thereof.

If a remonstrance against such proposed fill or improvement signed by persons owning one-half of the property in the district to be improved or reclaimed and assessed, shall be filed with the Auditor and Police Judge by the time of the next regular meeting of the Common Council following the final publication of such notice, no such fill or improvement shall be ordered except by the affirmative vote of four members of the Common Council, but if no such remonstrance be filed, the same may be ordered by a majority vote of the members of the Common Council. At any time after the expiration of said time in which a remonstrance can be filed and within two months thereof, and also if such estimates and specifications are filed, the Common Council may, by resolution, order the improvement or fill constructed and prescribe the time and manner of making the same, and upon the passage of such resolution declaring the intention of the Common Council to make such fill or improvement and giving of the notice in this section provided and the filing of the estimate of the costs and expenses thereof, and specifications for the proposed work, and passage of the resolution ordering the improvement or fill, and prescribing the time and manner of making the same, the City of Warrenton shall be deemed to have gained jurisdiction for the purpose of making the improvement and assessing the property benefited thereby to defray the costs and expenses thereof.

Section 107. The Common Council shall provide by resolution for the time and manner of doing the work of reclaiming or filling in any reclamation district subject only to the following restrictions, viz: after such notice as may be prescribed in the resolution the work must be let to the lowest responsible bidder, and the Common Council shall provide for the rejection of any and all bids when deemed unreasonable, and the said Council shall provide for taking security by bond in such sum as it shall consider reasonable conditioned for the faithful performance of any contract let under its authority, and that the contractor will pay all persons supplying labor and material used in the performance of the work and conform to the requirements of the Charter and all ordinances of the City of Warrenton relating to the public works, and the provisions of such bond may be enforced by an action in the name of the City of Warrenton. The Common Council shall provide by resolution for the time of the completion of the work and for the inspection and acceptance thereof.

Section 108. When by the provisions of this act the cost and expenses of filling or reclaiming any district of tide lands, mud flats, overflowed lands, lowlands or water frontage is to be defrayed by special assessment upon the property so filled in, within such district benefited by the improvement, such assessment may be made as hereinafter provided. The Common Council shall select three disinterested freeholders of the City of Warrenton to act as a Board of Assessors which shall make the special assessments authorized by this act. If a member of such Board shall be interested in any such property in any special assessment district directed assessed by the Common Council, they shall appoint some other person to act in his stead in making the assessments, who for the purpose of the assessment shall be a member of the Board and such Board of Assessors may be changed from time to time at the pleasure of the Common Council.

Section 109. When any special assessments are to be made pro rata upon the lots, lands and premises, including water frontage, rights of way and franchises in any special assessment district according to the benefits the Common Council shall by resolution either at the time of ordering the fill or reclamation or before or after said time direct the same to be made by the Board of Assessors, and shall state therein the amount to be assessed and describe or designate the lots, lands and premises, water frontage, rights of way and franchises constituting the district to be assessed. Upon receiving such order or directions, the Board of Assessors shall make out an assessment roll listing and describing all the lots, premises, parcels of land, water frontage, rights of way and franchises to be assessed and the valuation thereof, with the names of the owners thereof if known, and shall levy thereon the amount to be assessed in the manner directed by the provisions of this act. They shall assess upon each lot or parcel of land, tract of water frontage, right of way or franchise, such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot or parcel of land, tract of water frontage, right of way or franchise from the improvement, and when such an assessment is completed, they shall report the same to the Common Council and file the same with the Auditor and Police Judge of the City of Warrenton. The cost and expenses of any improvement which may be defrayed by special assessment shall include the cost of survey, plans, assessment and advertising and the cost of filling in the property reclaimed including the streets and intersections thereof.

In case it shall become necessary to take or damage any property within any improvement district for the purpose of constructing the filling or reclamation thereof, the Common Council shall, upon a claim for such damages being filed by the owner of such property, cause a written notice to be served by the Auditor and Police Judge upon such owner, stating the time and place of hearing of such matter, and at said time proceed to hear and determine the value of such property or the amount of such damages, and to make compensation therefor from the general fund or direct that the amount thereof be assessed to the property benefited.

Whenever any parcel of land within the boundaries of any proposed improvement district shall be wholly filled to the proposed grade or elevation of the proposed fill, such parcel of land may be excluded from the list of lands to be assessed, when in the opinion of the Common Council justice and equity requires its exclusion.

Section 110. When any special assessment shall be reported by the Board of Assessors to the Common Council as in the above section directed, the same shall be filed with the Auditor and Police Judge of the City of Warrenton and numbered; before adopting the assessment, the Common Council shall cause notice to be published in two issues of a weekly newspaper printed and published in the City of Warrenton, of the filing of the same with the Auditor and Police Judge appointing a time when a committee of the Common Council will meet to review the assessment. The Common Council and the Board of Assessors shall act as a Board of Equalization and shall have power to raise or lower the whole or any part of such assessment; provided, that in case any assessment is raised, the parties affected thereby shall be notified in writing at least three days before such change shall be made. Any person objecting to the assessment must file his objection thereto in writing with the Auditor and Police Judge of the City of Warrenton. The Common Council and Board of Assessors shall report the result and when said assessment shall be reviewed and corrected, the Common Council shall by resolution confirm the same as corrected; or they may refer the same back to the Board of Assessors for revision or annul it and direct a new assessment, in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the Auditor and Police Judge shall endorse a certificate thereof upon the roll showing the date of confirmation, and the same shall be final and conclusive. All special assessments from the date of confirmation thereof shall constitute a lien upon the respective lots, parcels of land, water frontage, rights of way and franchises assessed and shall also be a charge against the person to whom assessed, until paid. Upon the confirmation of such assessment, it shall be the duty of the Auditor and Police Judge to enter a statement thereof in the docket of city liens, of the City of Warrenton.

Section 111. The docket of city liens of the Common Council is a book in which must be entered in pursuance of Section 110, the following matter in relation to assessments for the filling in and reclaiming of any tide lands, mud flats, overflowed lands, lowlands or water frontage in any improvement district.

1st. The name of the owner of each lot, tract or parcel of land, or tract or parcel of water frontage, or right of way or franchise assessed or that the owner is unknown.

2nd. The number or letter of the lot assessed and the number or letter of the block and the town or addition in which it is situated, or if a tract of land or water frontage or right of way or franchise, the description of the same.

3rd. The sum assessed upon lot or tract of land, right of way or franchise and the date of entry.

4th. The time and manner in which the same is to be paid, and if payable in installments, the amount of each installment and the date of payment.

Section 112. Whenever the assessment for filling in or reclaiming any district against a lot of twenty-five feet by one hundred feet or an equivalent quantity of land shall amount to the sum of \$100.00 or more, the Common Council shall order that the assessment for such improvement may be paid in ten equal installments, one to be paid at the time for the payment of the special assessment, and one shall be paid every year thereafter at such time as the Common Council shall order together with interest on the portion still remaining unpaid at the rate of

six per cent per annum until the whole sum is paid; provided however, that all persons entitled to the benefit of this provision shall, on or before the confirmation of such assessment or within such further time as shall be provided in the resolution confirming the assessment, file with the Auditor and Police Judge a written explanation that he be allowed to pay the costs of such fill or improvement in installments, in which written application he shall also state that he does thereby waive any irregularities in such proceedings for the filling or reclamation of such district, and the levying of assessment for that purpose, and giving therein also a description of his property affected thereby by the lots, blocks or other convenient description and thereafter and thereupon such property owner and such property thereby affected shall pay the cost of such improvement in installments as above provided. Provided further, however, that such owner and such property shall have the privilege at any time of paying whole of such assessment and all interest accrued, and thereupon have such property released from the lien of said assessment.

Provided further that whenever the assessment of any one person or persons owning property jointly, company or corporation for such fill or improvement, shall exceed the sum of \$200.00, then such person or persons, company or corporation shall have the privilege of this section as to payment in installments upon like terms.

All special assessments, except such installments thereof as the Common Council shall make payable at a future time as provided herein shall be due and payable on confirmation or at such time thereafter as the Common Council may prescribe.

In case any installment of assessment against any lot or parcel of land shall not be paid within thirty days from the time the same becomes due, the Common Council shall have the privilege and option of declaring by resolution that all of the remaining unpaid installments which stand against the same property shall at once become due and payable, and when so declared all such installments may be collected at the same time and in the same manner as in case of the first installment then overdue or said remaining unpaid installments may be collected at one time by suit in the Circuit Court of the State of Oregon for Clatsop County, in which suit the person owning the ~~the~~ property upon which the unpaid installments for any one improvement remaining due may be joined as parties defendant.

Whenever any special assessment shall be adjudged illegal or invalid for any reason or in case there shall have been a failure to assess the cost of any improvement upon the lands properly chargeable therewith the Common Council shall have the power to cause a new assessment to be made for the same purpose for which the former assessment was made. All the proceedings for such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or any part thereof levied upon any premises in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the assessment upon such premises and the reassessment shall be to that extent satisfied. No judgment or decree of any court, nor any act of the Common Council vacating a special assessment shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by a regular assessment of proceedings might have been lawfully assessed thereon; and provided further, that in case of any irregularity of any of the proceedings for the filling in or reclaiming of any district or the levying of the assessment to defray the costs and expenses thereof, whether such irregularities be jurisdictional or otherwise, the City of Warrenton shall have power to bring suit in the Circuit Court of the State of Oregon for Clatsop County against the owner or owners of the lot or lots, block or blocks, or parcel or parcels of land, including water frontage, rights of way or franchises upon which the cost of such improvement might or could have been charged or imposed and which were benefited thereby which said lands, lots and premises and water frontage and rights of way and franchises shall include all lots, lands and premises, water frontage, rights of way and franchises within the reclamation district and recover the proportion of the costs of such improvement from each of said lots, lands and premises, water frontage, rights of way and franchises benefited by such improvement according to the benefits resulting to each from the improvement. In any such suit so instituted all persons whose property is or would be so liable for the payment of any such proportion of the assessment aforesaid shall be joined as parties defendant in one suit and the judgment rendered

therein shall be a several judgment in rem against each of said lots, or parcels of land and water frontage, rights of way or franchises owned by each of the several defendants for its proportion of the cost of the improvement and the costs and disbursements and the lien thereof shall be decreed upon the premises. The general laws of the State of Oregon governing suits in equity, service of summons, and other process shall apply to any such suit.

Section 113. The docket of city liens in which such assessments shall be entered and all other records of the Common Council, shall be deemed public writings and the originals or certified copies of the same or any part thereof shall be entitled to the force, and effect thereof, and from the date of the entry of an assessment upon a lot or part thereof, tract or parcel of land, water frontage or right of way or franchise, the sum so entered is to be deemed a lien thereon, which said lien shall have priority over all other liens or incumbrances thereon whatsoever.

Section 114. For the purpose of ascertaining who is the owner of any lot or part thereof, parcel or tract of land, including water frontage, right of way or franchise assessed for filling in or reclaiming the same, including the streets and intersections thereof, the Auditor and Police Judge and Common Council shall take the certificate of the County Clerk of Clatsop County stating who is the owner thereof at the date of the resolution ordering the assessment as may appear from the Records of Deeds of said County, which certificate such County Clerk is authorized and required to give when demanded to give the same by the Auditor and Police Judge.

Section 115. A sum of money so assessed for reclaiming or filling in any district can not be collected until by order of the Common Council, notice thereof is given by the Auditor and Police Judge by publication in two issues in a weekly newspaper published in the City of Warrenton. Such notice must contain the number of the assessment roll, a brief description of the district filled in or reclaimed and the names of the persons against whom the assessments are made and the amount owing by each and no other statement shall be required.

Section 116. If within ten days of the expiration of said notice as required by Section 115, the sum assessed upon any lot or part thereof, tract or parcel of land, tract of water frontage, right of way or franchise is not wholly paid to the Auditor and Police Judge and a duplicate receipt filed with the Auditor and Police Judge, the Common Council may thereafter order a warrant issued for the collection of the same to be issued by the Auditor and Police Judge directed to the City Marshal of the City of Warrenton.

Section 117. Such warrant shall have the force and effect of an execution against real property and shall be executed in like manner, except as herein otherwise provided. Such warrant must require the City Marshal to proceed to collect the unpaid assessment named therein by advertising and selling to the highest bidder the lot, part thereof, tract of land or right of way or franchise described in the warrant in the manner provided by law for the sale of such property under execution, and return the proceeds of such sales to the Auditor and Police Judge of the City of Warrenton with his doings endorsed thereon. Provided that all the unpaid assessments for any one improvement may be included in one advertisement and notice of sale, but each piece or parcel of land shall be sold separately and for a sum not less than the unpaid assessment thereon and interest and cost of advertising the sale; and provided further, that in the execution of said warrant no levy upon the lot or lots or parcels of land, rights of way or franchises described therein shall be required. The notice of sale shall be published once a week for four successive weeks prior to the date of sale. The warrant shall be returned within ninety days after the receipt of the same by the City Marshal and alias warrants may be issued when required. At every sale of real estate under any such warrant for the collection of delinquent assessments the City Marshal or some other officer duly authorized by the Common Council shall bid for and in the name of the City of Warrenton for each tract, lot or parcel of land, right of way, or franchise offered for sale, the amount of the assessment against the same including the amount of any costs and charges accrued; and if no greater sum be bid such tract, lot, parcel of land, right of way or franchise shall be struck off to the City of Warrenton and shall be held by it and be subject to redemption in like manner as if it had been sold to a private person and the Common Council may provide for selling and disposing of the same at any time after the right of redemption shall have expired.

Section 118. The City Marshall executing such warrant shall immediately make a deed for the property sold thereon to the purchaser stating therein that the same is made subject to redemption as provided in this act. Within three years from the date of such sale the owner or his successor in interest or any person having a lien by judgment, decree or mortgage on the property or any part thereof separately sold may redeem the same upon the terms and conditions provided in the next section.

Section 119. Redemption shall be made by the payment of the purchase money and ten per cent additional as a penalty together with interest on the purchase money from the date of sale to the time of payment at the rate of six per cent per annum and the amount of any tax which the purchaser may have paid on the property redeemed. Redemption from the City of Warrenton shall be made by payment to the City Auditor and Police Judge and written application to the Common Council, and upon application being granted the Mayor and Auditor and Police Judge shall execute redemption certificates to the person or persons making redemption. A redemption discharges the property from the effects of the sale for the assessment. If made by the owner or his successor in interest the estate in the property is hereby restored to the owner or his successor in interest as the case may be, but if made by a lien creditor, the amount paid for redemption is thereafter to be deemed a part of his judgment, decree or mortgage, as the case may be and shall bear like interest and may be enforced and collected as part thereof.

Section 120. Whenever a purchaser or those claiming under him refuse to convey to the person entitled to redeem such person may enforce such conveyance thereof by a suit in equity as for a specific contract to convey real property, and such suit may be maintained against absent person without proof of tender of money and offer to redeem, if the plaintiff bring the money into Court with his complaint, and offers to redeem. Every action, suit or proceeding which may be commenced for the recovery of land which shall have been sold by the City Marshall of Warrenton for any such assessment except in cases where the assessment for which the land was sold has been paid before the sale or the land redeemed as provided by law, shall be commenced within four years from the time of the recording of the deed executed by the City Marshall and not thereafter. In any suit, action or proceeding in any Court concerning any assessment of property authorized by this act or the collection of such assessment or proceedings consequent thereon, such assessment and subsequent proceedings and all proceedings connected therewith shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to discretion or judgment of the Common Council, such discretion or judgment when exercised or declared is final and cannot be reversed or called in question elsewhere.

Section 121. In making a deed for real property sold for delinquent assessment for filling in or reclaiming any improvement district, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appears from such deed that the property is sold by virtue of a warrant from the Auditor and Police Judge and the date thereof together with the date of sale and the amount bid thereat by the purchaser and the person to whom sold and such deed shall be prima facie evidence of the authority to make the sale and the regularity of anterior proceedings. No suit or legal proceedings shall be instituted to set aside such a deed or to have the same declared void without first tendering to the purchaser of the property at the assessment sale, his heirs or assigns, whether the purchaser be the City or otherwise, the amount bid at such sale for the property together with ten per cent penalty on said amount, with interest on the amount bid at such sale from the date of sale at six per cent per annum and all taxes and assessments paid by such purchaser on account of such property, with like interest thereon. And in any such suit or action prosecuted by any person claiming to be the owner of any property under an assessment sale for the recovery of the possession of such property, the defendant, except in cases where the assessments have been paid or the property redeemed shall tender with his answer and pay into Court for the benefit of the holder of the assessment title the amount hereinbefore required to be tendered in an action brought to set aside such assessment deeds. The style of the warrant for the collection of delinquent assessments shall be "In the name of the City of Warrenton".

Section 122. Any contractor who has entered into any contract with the City of Warrenton to fill in or reclaim any reclamation district under this act may dredge out material for the purpose of making the fill from the beds of the Columbia

River and the Skipanon River, along the City water front; outside of the pier head line under such restrictions and regulations as the Common Council may from time to time prescribe by resolution.

Section 123. Nothing in this act contained shall be so construed as to in any way abridge or interfere with the power of the Common Council of the City of Warrenton to improve any and all streets thereof in any manner now provided; and said Common Council may improve any street by constructing retaining walls on each side thereof to retain the fill and by grading and filling the same to the established grade and by macadamizing or paving the same or in any other manner whatever, and assess the costs and expenses thereof against the property benefited thereby as now provided by the Charter of the City of Warrenton; and provided further, that whenever any street over the tide lands, mud flats, overflow lands or lowlands of the City of Warrenton shall be improved by filling the same to the established grade and macadamizing or paving the same and the assessment for such improvement against a lot twenty-five feet by one hundred feet or an equivalent quantity of land shall exceed the sum of \$100.00, the owner of the property so assessed shall upon application therefor to the Common Council before confirmation of the assessment and waiver of all irregularities in the proceedings have the privilege of paying such assessment in ten equal installments, one of which shall be payable at the time the assessment is confirmed, and one every year thereafter with interest on all unpaid installments at the rate of six per cent per annum, payable annually until all installments are paid in full, which said assessments except as herein otherwise provided shall be levied and collected in the same manner as other street assessments are levied and collected, and all the provisions of the Charter shall be applicable to and govern the mode of proceedings for such improvement and the levy and collection of the assessments to defray the costs thereof.

Section 124. The City of Warrenton through its Common Council shall not incur any indebtedness in carrying out the provisions of this Act in excess of said \$200,000.00 for constructing bulkheads and retaining walls and said \$200,000.00 for filling in and reclaiming the tide lands, mud flats, overflow lands and lowlands and the indebtedness of the City shall be limited to that sum in excess of the present limit of indebtedness of the City as prescribed by Sections 31, 51, 89 and 101 of the Charter of the City of Warrenton.

Section 1. All parts of the Charter of the City of Warrenton and all ordinances and parts of Charter and ordinances of said City in conflict with the provisions of this Charter amendment are hereby modified or repealed as the case may require, in order that this amendment may be in full force and effect.

Section 2. This proposed amendment to the Charter of the City of Warrenton shall be submitted to the qualified voters of said city at a special election which has been called to be held on Friday, the 14th day of June, 1918, for the purpose of voting on proposed amendments to the Charter of the City of Warrenton.

Section 3. The title of the proposed amendment as hereinbefore set forth to be voted upon at said special election, and as the same shall appear upon the official ballot, shall be as follows:

Proposed by the Common Council of the City of Warrenton and
Referred to the Electors of the City of Warrenton.

An amendment to the Charter of the City of Warrenton providing the Common Council of said City with power to establish reclamation or improvement districts, and to construct bulkheads or retaining walls, and to cause such districts to be filled, and to defray the costs by local assessments upon the property benefited, giving persons assessed the option of paying assessments in ten installments, one to be paid at the time for the payment of the special assessment and one to be paid every year thereafter with interest on the portion still remaining unpaid at the rate of six per cent per annum, and to issue and sell bonds to defray the costs of constructing bulkheads to an amount not exceeding \$200,000.00, and to issue and sell bonds to defray the cost of filling reclamation districts to the amount left due the City by owners of property assessed availing themselves of paying assessments in installments, to the aggregate amount not exceeding \$200,000.00, to levy an annual tax not exceeding ten mills on the dollar to defray the expense of constructing bulkheads or retaining

walls, to pay interest on bonds issued for that purpose, and for redeeming such bonds, and to pay salaries of officers and general incidental expenses of the Common Council, to sell property assessed for delinquent assessments and granting the Common Council of the City of Warrenton power to improve streets over the tide lands by constructing retaining walls and filling the same, and providing that persons owning property assessed shall have the privilege of paying assessments in ten installments, one of which shall be payable at the time the assessment is confirmed and one every year thereafter with interest at the rate of six per cent per annum, payable annually where assessments shall exceed the sum of \$100.00 against a lot twenty-five feet by one hundred feet, or an equivalent quantity of land.

VOTE YES OR NO.

300 Yes

301 No

Section 4. Inasmuch as the objects to be obtained by this ordinance will be of great benefit to the people of the City of Warrenton, and there exists and is an urgent necessity that this ordinance should take effect as soon as possible, so that the health, peace and safety of the City of Warrenton may be preserved, an emergency is hereby declared to exist, and this section therefore shall take effect when approved and adopted by the affirmative vote of two-thirds of all the members of the Common Council, and this ordinance shall then be in full force and effect, immediately after its approval by the Mayor of the City of Warrenton, and adopted by the people of the City of Warrenton at a special election held therefor.

Passed the Common Council this 13th day of May, 1918.

Submitted to the Mayor this 13th day of May, 1918.

Attest:

(Signed) John Evenden
Auditor and Police Judge

Approved this 13th day of May, 1918.

(CORPORATE SEAL OF THE CITY)
(OF WARRENTON AFFIXED HERE)

(Signed) F M Warren