
CHAPTER 3. SPECIAL ASSESSMENTS

1.71. Definitions. In the interpretation of this Chapter the following definitions shall apply:

- (1) The term "cost" shall refer to the cost of any public improvement and shall include the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing, construction, and legal fees and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.
- (2) The term "public improvement" shall mean any improvement upon public property, right-of-way or easement which results in special benefit to the real property in the vicinity of such improvement.

1.72. Special Assessments. The entire cost or any part thereof of all public improvements may be defrayed by special assessment upon the lands especially benefited by the improvement in the manner hereinafter provided.

1.73. Initiation of Public Improvements. Proceedings for making public improvements may be initiated by resolution of the Council or by a petition of a majority of the owners of the land liable to be assessed in any proposed special assessment district. All public improvements shall be made at the discretion of the Council and no petition shall be mandatory upon the Council.

1.74. Form of Petitions. All petitions for public improvements shall be on printed forms supplied by the City and shall include an affidavit by one or more of the circulators that the signatures appearing thereon are genuine and each signer declares himself to be the owner of the interest in the land indicated. All such petitions shall be filed with the City Clerk who shall record the filing date thereon and refer them to the City Manager for investigation. The City Clerk shall report the receipt of all such petitions to the City Council at the next regular meeting following receipt of any such petition.

1.75. Investigation. All petitions for public improvements shall be investigated by the City Manager to determine whether a sufficient number of valid signatures have been obtained and, if such investigation discloses a deficiency, the said petition shall be returned to the circulator with notice of the fact. Where any lot or parcel of land is owned by more than one person, each person having an interest must join in the petition. A petition containing the required number of valid signatures shall be acted upon by the Council either to accept, defer, or reject such petition.

1.76. Request for Report. Upon acceptance of a special assessment project petition, the Council shall refer the same to the City Manager directing him to make a survey and report concerning the need for, desirable extent of, and probable cost of such proposed public improvement. The Manager shall recommend what proportion of the cost should be paid by special assessment upon the property especially benefited and what proportion, if any, should be paid by the City at large. The Council shall not order the making of any special assessment improvement prior to the filing of the report of the City Manager and until after a public hearing has been held for the hearing of objections to the making of such special assessment improvements.

1.77. Filing of Report and Notice of Hearing. If the Council determines to proceed with the public improvement it shall approve the report of the City Manager as filed or as modified by the Council, and shall order the same filed with the City Clerk for public examination; it shall fix a time and place for a hearing on objections to the proposed improvement or to the inclusion of any property within the proposed district, at which hearing all persons owning property within the proposed special assessment district may be heard. No hearing on the improvement shall be required if a petition for such public improvement is signed by all of the property owners to be assessed for the improvement. The Clerk shall cause notice of the time and place of such hearing to be published once in a

newspaper published and circulated within the City not less than ten (10) days prior to the date of said hearing. Such notice shall describe the proposed special assessment district, the nature of the improvement, and shall also state that the Manager's report and estimate of costs is on file with the City Clerk. A like ten (10) day notice shall also be sent by mail as prescribed in Public Act 162 of 1962, State of Michigan. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council.

1.78. Objections and Modifications. The Council, after hearing objections, may at or after said public hearing, modify the said proposed improvement or district in any respect which they shall deem in the best interests of the City at large; provided, that in the event the amount of work is increased or the boundaries of the district enlarged, then another hearing shall be held pursuant to notice required by section 1.77.

1.79. Determination to Make Improvements. After completion of the hearing on the improvement, the Council may, by resolution, determine to make the improvement and to defray the whole or any part of the cost of the improvement by special assessment upon the property especially benefited in proportion to the benefits thereto. By such resolution the Council shall determine the necessity for the improvement; approve the plans and specifications for the improvement; determine the estimated cost thereof; determine what proportion of such cost shall be paid by special assessment upon the property especially benefited and what part, if any, shall be a general obligation of the City; designate the district or land and premises upon which the special assessment shall be levied; and direct the Assessor to prepare a special assessment roll in accordance with the Council's determination. In the event that neither the proceeds of the special assessment nor the proceeds of bonds payable from the special assessment are required to defray the expense of the public improvement, the Council may order the City Manager to proceed with the work either by contract or with City forces. If, prior to the adoption of the resolution authorizing the making of the public improvement, written objections thereto have been filed by the owners of property in the district, which, according to estimates, will be required to bear more than fifty percent (50%) of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted except by the affirmative vote of five (5) members of the Council.

When any public improvement is constructed on or near the City limits, that portion of such improvement which would be specially assessed to land outside of the City limits shall be paid for by the City at large.

1.80. Special Assessment Roll. The City Assessor shall prepare a special assessment roll of all lots or parcels of land within the special assessment district benefited by the proposed improvement, as finally determined by the Council, and assess to each lot or parcel of land, the amount benefited thereby.

1.81. Notice of Hearing on Roll. When the said special assessment roll shall have been reported to the Council, they shall order the same filed in the office of the City Clerk for public examination and shall fix the time and place to review the roll, and direct the Clerk to give notice of a public hearing thereon. Such notice shall be given by one (1) publication in a newspaper printed and circulated in the City at least ten (10) days prior to the holding of the hearing, and by mail as prescribed in Public Act 162 of 1962, State of Michigan.

1.82. Hearing on Roll, Revision and Approval. The Council shall review such special assessment roll and consider all objections thereto. The Council may correct or amend said roll as to any assessment or description of property or any other matters appearing therein. If, after hearing all objections, the Council determines that assessments are in proportion to benefits derived or to be derived, it shall thereupon pass a resolution reciting such determinations, confirming such roll and directing the Clerk to transmit the assessment roll to the Treasurer for collection of the various amounts on said roll in accordance with Council resolution. Such resolution shall state the date upon which the special assessment, or the first installment thereof, if installment payments be allowed, shall be due and payable; the number of annual installments in which the special assessment may be paid; and the rate of interest to be charged upon each deferred installment. Such roll shall have the date of confirmation endorsed thereon by the Clerk and be final and conclusive for the purpose of the improvement to which it pertains.

1.83. Lien. All special assessments contained in any special assessment roll, including any part thereof to be paid in installments shall from the date of confirmation of such roll constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land and a debt to the City from the persons to whom they are assessed. Such liens shall be of the same character and effect as the lien created by the City Charter for City taxes and shall include accrued interest and fees.

1.84. Collection of Roll. After the Council has confirmed the roll, the Treasurer shall notify by mail each property owner on the assessment roll that said roll has been confirmed and filed, stating the amount assessed. Failure to receive notice shall not invalidate any special assessment nor excuse the payment of interest or collection fees, or both. Each property owner shall have ninety (90) days from the date of confirmation of the roll to pay said assessment in full or any part thereof in a sum not less than the first installment thereof as set by the Council, without interest, fees or penalty. Following said ninety (90) days, the property owner may pay all of this assessment at any time, but shall be required to pay interest thereon as fixed by the Council. If a special assessment or the first installment thereof remains unpaid as of the last day of February following the date of confirmation of the roll, there shall be added interest at the rate set by the Council beginning ninety (90) days from the date of confirmation of the roll to the first day of July following the said last day of February and said assessment shall be spread upon the then current tax roll for the collection of taxes in the City and collected in the same manner and subject to the same fees and penalties as taxes. The second and remaining installments shall be spread upon the succeeding City tax rolls, together with interest beginning ninety (90) days from date of confirmation of the roll, until all installments are paid.

1.85. Assessment for Abating Hazards and Nuisances. In the event it shall become necessary to abate a hazard or nuisance as described in section 3.2(1) of the City Charter, the Council shall determine what amount or part of such expense shall be charged, and designate the property upon which the same shall be levied as a special assessment. The Council shall require that the persons chargeable therewith be notified by the City Clerk either by first class mail, or if the owner or his address is unknown, by posting notice upon the premises affected. Such notice shall state the basis for the assessment, the cost thereof, and shall give a reasonable time, which shall not be less than thirty (30) days, in which payment shall be made. In all cases where payment is not made within the time limit, the same shall be reported by the Clerk to the Council, which shall direct the Assessor to spread such amounts against the descriptions of property chargeable therewith on the next general tax roll for the collection of taxes in the City.

1.86. Additional Procedures. In any case where the provisions of this Chapter may prove to be insufficient to carry into full effect the making of any special assessment, the Council shall provide, in the resolution authorizing the improvement, the additional steps or procedures required. The City Council may determine that any public improvement is for the benefit of the City at large and the costs thereof shall be paid by the City at large. In the event that the abutting property owners at any future time wish to make use of such improvement, an additional tap-in charge shall be made which is equal to the then current special assessment cost of the public improvement which would be charged as provided in this Chapter. The charge shall be against the property to be served and the owner thereof, and shall be a lien thereon, and shall be collected as provided in section 1.84.

1.87. Contested Assessments. No suit or action of any kind shall be instituted for the purpose of contesting or enjoining the collection of any special assessments unless:

- (1) within thirty (30) days after the confirmation of the special assessment roll, written notice is given to the Council of intention to file such suit or action, stating the grounds on which it is claimed such assessment is illegal, and
- (2) such suit or action shall be commenced within ninety (90) days after the confirmation of the roll.

1.88. Reassessment for Benefits. Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for an original assessment and, whenever any sum or part thereof, levied upon any property in the assessment so set aside, has been paid and not refunded, the payment so made shall be applied upon the reassessment. If the payments exceed the amount of the reassessment, refunds shall be made.

1.89. Combination of Projects. The Council may combine several districts into one (1) project for the purpose of effecting savings in the cost.

1.90. Additional Special Assessments. Additional pro rata assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incidental thereto, or to pay the principal and interest on bonds issued in anticipation of such special assessment. Provided, however, that any additional pro rata assessment shall not exceed ten percent (10%) of the assessment as originally confirmed, unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published as provided in the case of review of the original special assessment roll.

1.91. Lands Divided After Assessment. Should any lots or parcels of land be divided after a special assessment thereon has been confirmed but before the total of the special assessments have been paid, then the City Manager may apportion the uncollected amounts upon the several lots and lands so divided, and may instruct the Assessor to enter the several amounts upon the tax roll. This apportionment, when the tax roll shall have been received and confirmed, shall be final and conclusive on all parties.

Whenever and wherever property is annexed to the City and abutting an existing public improvement, there shall be levied against such property newly annexed to the City an improvement charge to provide that property's fair share of the cost of improvements which benefit such property, which costs were financed by special assessment and for which the City at large was charged, as provided in section 1.79, or for which costs the City became otherwise obligated. The City Council shall by resolution determine the amount of the charge to cover the property's fair share of such improvement, and said resolution determining the charge to be levied after annexation and for a then-existing improvement shall be promptly recorded in the Office of the Register of Deeds of Saginaw County, Michigan.

The improvement charge shall become payable at a time fixed by Council resolution and the Council may permit installment payments as provided for in section 1.84.

Said improvement charges, including any part thereof deferred as to payment, shall from the date of the Council resolution establishing the charge, constitute a lien upon the respective lots or parcels of land annexed and, until paid shall be charged against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for City taxes and shall include accrued interest and penalties. When any such improvement charge or any installment thereof, whenever divided into installments, shall have been due and unpaid for a period of more than ninety (90) days, the same shall be spread upon the then current tax roll for the collection of taxes in the City and collected in the same manner and subject to the same fees and penalties as taxes.

1.92. Charter Provisions. The provisions of Chapter 10 of the City Charter which are not set forth or made effective by this Chapter are hereby adopted and made a part of this Chapter as though set forth verbatim herein.

1.93. Deferred Assessments. When an improvement is made which the Council determines does not specially benefit residential properties which are located in a special assessment district, the Council may provide in the resolution adopted pursuant to Section 1.82 hereof that the assessment confirmed against any such residential property be deferred until such time as the use of such property is changed so that in the judgment of the Council the benefit of the improvement shall then accrue to said property. The Assessor shall report such change of use to the Council which upon determining benefit shall direct the Assessor to collect the special assessment in accordance with its instructions.

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