

## **Chapter 32**

### **SPECIAL ASSEMENTS FOR PUBLIC IMPROVEMENTS**

#### **32.01.00 Definitions**

For the purposes of this ordinance, the following definitions shall apply:

**32.01.01 Cost** – The term “cost” when referring to the cost of any public improvement, shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees and all other costs incident to the making of such improvement, the special assessments therefore and the financing thereof.

**32.01.02 Public improvement** – The term “public improvement” shall mean any public work or public improvement for which any part of the cost is to be assessed against one (1) or more lots or parcels to be specifically benefited thereby. This Chapter is general and shall not apply to improvements for which specific special assessment procedures have been established.

#### **32.02.00 General authority for assessments**

The entire cost and expense or any part thereof of all public improvements may be defrayed by special assessment upon the lands specifically benefited by the improvement in the manner provided in this chapter.

#### **32.03.00 Initiation of proceedings**

##### **32.03.01 Initiation by petition of property owners**

Initiation of public improvements may be by petition to the city council, signed by property owners whose property is subject to being benefited. Such petition shall be printed on forms approved by the city attorney and shall set forth the location, extent and character of the desired public improvement. All petitions for public improvements shall be referred to the city manager for report and recommendation. After receiving the manager’s report and recommendation, the city council shall proceed in the same manner as provided herein for public improvements initiated by the city council.

##### **32.03.02 Initiation by action of city council**

Proceedings for making public improvements and defraying the entire cost or any part thereof by special assessment may be initiated by resolution of the city council.

#### **32.04.00 City manager’s investigation and report**

**32.04.01** Whenever the city council shall determine to make any public improvement and defray the entire cost and expense thereof or any part thereof by special assessment, the council shall, by resolution, direct the city manager to make an investigation of the proposed public improvement and report his findings to the council.

**32.04.02** The city manager's report referred to in 34.04.01 above shall include an analysis of the estimated cost of the proposed public improvement and plans and specifications for the public improvement. There shall also be included recommendations as to the following:

- A) The portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the city at large;
- B) The extent of the improvement and boundaries of the district;
- C) The number of installments in which assessments may be paid; and
- D) Any other factors or recommendations which will aid the council in determining whether the improvement shall be made and how the same shall be financed.

**32.05.00 Tentative determination by council; direction to prepare assessment roll**

**32.05.01** Upon receipt of the report of the city manager referred to in section 32.04, if the council shall determine to proceed with the improvement, it shall, by resolution, order the city manager's report to be filed with the city clerk.

**32.05.02** In addition, by such resolution, the council shall tentatively:

- A) Determine to proceed with the public improvement,
- B) Determine the necessity thereof and set forth the nature thereof,
- C) Designate the limits of the special assessment district to be effected and describe the lands to be assessed,
- D) Determine the part or proportion of the cost of the public improvements to be paid by the lands specifically benefited thereby and the part or proportion, if any, to be paid by the city at large for benefit to the city at large, and
- E) Direct the city assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands specifically benefited according to the benefits received and to report the same to the council.

**32.06.00 Filing of assessment roll; fixing time for and giving notice of public hearing**

**32.06.01** When the special assessment roll has been reported to the council; it shall:

- A) Order the same filed in the office of the city clerk for public examination along with the report of the city manager required to be made pursuant to this chapter, and
- B) Fix a date, time and place when the council shall meet to finally determine the necessity of the improvement, composition of the district and to review the roll and to hear complaints.

**32.06.02** The city manager's report and the assessment roll shall be open to public inspection for a period of seven (7) days before the hearing required by this section.

**32.06.03** The city clerk shall give notice of the hearing by the council to determine the necessity for the improvement, composition of the district and

review the special assessment roll and to hear complaints, by publication at least once in a newspaper printed and circulated in the city at least ten (10) days prior to the time of the meeting, and shall further cause notice of the meeting to be mailed by first class mail to each property owner in the special assessment district, as shown by the current assessment rolls of the city, at least ten (10) days prior to the time of the hearing, the notice to be mailed to the addresses shown on the current assessment rolls of the city. Such notice shall state that the plans, estimates of cost and special assessment rolls are on file with the city clerk.

**32.07.00 Conduct of hearing; second hearing required for certain changes**

**32.07.01** The council shall meet and hear objections to a proposed public improvement to the special assessment district and the special assessment roll therefore at the time and place appointed or at an adjourned meeting thereof and shall consider any objections thereto.

**32.07.02** The council may revise, correct or amend the plans, estimates of cost, special assessment district and special assessment roll.

**32.07.03** If any changes are made which result in additions to the special assessment district or increases in the special assessment roll, then a second hearing shall be held with respect to the changes and notice of such hearing shall be given in the same manner as required for the first hearing.

**32.08.00 Action by council following public hearing; finality of assessment roll**

**32.08.01** After the hearing, or second hearing if required, as provided for in section 32.07, the council may, by resolution:

- A) Determine to proceed with the public improvement,
- B) Determine the necessity thereof and set forth the nature thereof,
- C) Designate the limits of the special assessment district to be affected and describe the lands to be assessed.
- D) Finally determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part or portion, if any, to be paid by the city at large for benefit to the city at large.

**32.08.02** The council may also confirm the special assessment roll with such corrections as it may have made, if any, or may refer it back to the city assessor for revision, or may annul it or any proceedings in connection therewith.

**32.08.03** The city clerk shall endorse the date of confirmation upon each special assessment roll.

**32.08.04** Such roll shall be, upon ratification and confirmation, final and conclusive.

### **32.09.00 Required vote in case of objections**

If at or prior to the hearing by the city council, the owners of more than one-half of the property to be assessed shall object in writing to the improvement, assessment shall not be made without an affirmative vote of two-thirds (2/3) elected members of the council.

### **32.10.00 Creation of lien; when due; installment payments**

**32.10.01** 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.

**32.10.02** Such lien shall be of the same character and effect as the lien created by statute (MCL 111.14 et seq) for city taxes and shall include accrued interest and fees.

**32.10.03** No judgment or decree nor act of the 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 mode of proceeding, might be lawfully assessed thereon.

**32.10.04** All special assessments shall become due upon confirmation of the special assessment roll or in annual installments, the council may determine the first installment to be due upon confirmation or upon any other date the council may prescribe, and the subsequent installments annually thereafter.

**32.10.05** Deferred installments shall bear interest at such rate as the council may prescribe.

### **32.11.00 Collection**

**32.11.01** Whenever any special assessment roll shall be confirmed and be payable, the council shall direct the city clerk to transmit the assessment roll to the city treasurer for collection.

**32.11.02** The city treasurer shall mail statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records of the city assessor, stating the amount of the assessment and the manner in which it may be paid; provided, however, failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

**32.11.03** The whole or any part of such assessment may be paid in full at any time after the date of confirmation of the special assessment roll until such time as the council shall prescribe, without interest or penalty.

**32.11.04** Each special assessment shall be collected by the city treasurer with the same rights and remedies as provided by statute for the collection of taxes, except as otherwise herein provided.

**32.11.05** All collection fees shall belong to the city and be collectible in the same manner as the collection fee for city taxes.

**32.12.00 Fees and interest**

After the expiration of the period provided for in 32.11 for payment without interest or fees, any installment may be discharged by paying the face amount thereof together with fees and interest thereon from the date of confirmation to the date of payment.

**32.13.00 Additional assessments**

Should the assessments on any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the council may make additional pro rata assessments to supply the deficiency against the city and the several lots and parcels of land in the same ratio as the original assessments, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement.

**32.14.00 Refunds**

Should the special assessment or the proceeds of sale of any special assessment bonds prove larger than necessary to meet the cost of the improvement or to meet the principal and interest requirements of any special assessment bonds and expenses incidental thereto, the excess shall be placed in the city treasury. If more than five percent (5%), the excess shall be returned pro rata according to assessments, except as otherwise specifically provided. No refunds may be made which contravene the provisions of any evidence indebtedness secured in whole or in part by such special assessments.

**32.15.00 Division of lots after confirmation of assessment**

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the city assessor shall apportion the uncollected amounts upon the several amounts as amendments upon the special assessment roll. The city treasurer shall, within ten (10) days after such apportionment, send notice of such action to the persons concerned, at their last-known address, by first class mail. Such apportionment shall be final and conclusive on all parties unless protest in writing is received by the city treasurer within twenty (20) days of the mailing of the aforesaid notice.

**32.16.00 Assessment defects**

Whenever the council deems any special assessment invalid or defective, or whenever a court adjudges an assessment to be illegal in whole or in part, the council may cause a new assessment to be levied for the same purpose, whether or not the improvement or any part thereof has been completed, or any part of the special assessment collected.

**32.16.01** All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment.

**32.16.02** If any portion of the original special assessment is collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall, to that extent, be deemed satisfied.

**32.16.03** If more than the amount reassessed is collected, the balance shall be refunded to the person making such payment.

**32.16.04** If in any action it shall appear that, by reason of any irregularities or informalities the assessment has not been properly made against the person assessed or upon the lot or premises sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred by the city which is a proper charge against the person assessed or the lot or premises in question, render judgment for the amount properly chargeable against such person or upon such lot or premises.

**32.17.00 Additional procedure**

In any case where the provisions of this chapter may prove to be insufficient to carry into full effect the making of any improvement or the special assessment therefore, the city council shall provide any additional steps or procedure required to effect the improvement by special assessment in the resolution declaring the determination of the city council to make such improvement in the first instance.

**32.18.00 Single lot assessments (Services performed to individual parcels)**

**32.18.01** When any expenses shall be incurred by the city upon or in respect to any separate or single lot, parcel of land or premises, which, by the provision of the city charter the council is authorized to charge and collect as a single lot special assessment against the same, and which is not of that class of special assessments required to be made pro rata upon several lots or parcels of land in a special assessment district, an account of the labor or services for which such expense was incurred, verified by the officer or person performing the labor or services, or causing the same to be done, shall be reported to the city council in a manner it prescribes.

**32.18.02** The accounting reported to the council shall include:

- A) A description of the lot or premises on or in respect to which the expense was incurred,
- B) The name of the owner or person chargeable therewith, and
- C) The cost of labor or services performed.

**32.18.03** The provisions of the preceding section of this chapter with reference to pro rata special assessments generally, and the proceedings necessary to be had before making the improvement, shall not apply to single lot assessments contemplated in this section.

**32.18.04** The city council, after review of the single lots assessment account, shall determine what amount or part of every such reported expense shall be charged, and the premises upon which the same shall be levied as a single lot special assessment. As often as the city council may deem it expedient, it shall require all of the several amount so reported and determined and the several lots or premises chargeable therewith respectively to be reported by the city clerk to the city assessor, who shall spread such amounts against the real property chargeable therewith on the next tax roll for the collection of general city taxes.

**32.19.00 Same-Use for recovery of cost of abating public nuisances and hazards**

When any lot, building or structure, because of accumulation of refuse or debris, the uncontrolled growing weeds, or age or dilapidation , or because of any other condition or happening, becomes a public hazard or nuisance which is detrimental to the health or safety of the inhabitants of the city, or of those residing or habitually going near such lot, building or structure, the council may order such hazard or nuisance abated and the cost of such abatement assessed against the lot, premises or description of real property upon which such hazard or nuisance was located as a single lot assessment.

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