

CHAPTER 232

Special Assessments

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CROSS REFERENCES

Special assessments - see Mich. Const. Art. 9, Sec. 6; CHTR. Ch. X; M.C.L.A. Secs. 104A.1 et seq., 211.741 et seq.
Bonds for special assessments - see CHTR. Sec. 87
Endorsement of roll - see CHTR. Sec. 95
Continuation of assessments - see CHTR. Sec. 173
Assessment of taxes - see ADM. 230.05

232.01 CITY COMMISSION AUTHORITY

The City Commission shall have the power to determine by resolution, with or without petition, that the whole or any part of the cost of any public improvement or abatement necessary to preserve the public health, safety, and welfare shall be defrayed by special assessment upon the property in special districts especially benefited but such determination shall not be made until the preliminary proceedings provided for in this Chapter shall have been completed. In all cases, public improvements and hazard abatement shall be made at the discretion of the City Commission. Advisory petitions for improvements may be submitted to the City Commission but they shall be advisory only and shall not be jurisdictional.
(Ord. 819. Passed 1-5-09.)

232.02 INITIATION OF PUBLIC IMPROVEMENTS.

- (a) Filing of Petitions. The initiation of a public improvement, any part of the expense of which is to be assessed against one or more lots or parcels of real estate in proportion to the probable benefit to be derived there from, may be made by petition to the City Commission, signed by the owners of 50% or more of the owners of the property to be benefited by the improvement. To permit proper planning, designing and financing, petitions for capital improvement should be filed by April 1. If a petition is filed after April 1 and the City Engineer determines the costs will appreciably change, a new petition with the revised cost information shall be circulated before the petition may be considered. The City Commission may not be able to consider any such request or petition which is filed later than April 1 of each year.
- (b) Contents of Petitions. Petitions shall be presented on forms provided by the City Clerk and shall set forth the location, extent and character of the desired improvement, the portion of the total cost which is proposed to be assessed against the property to be benefited, and the number of annual installments in which the assessment is to be divided.
- (c) City Commission Initiation. Public improvements may be initiated by City Commission resolution.
 - (1) If written objections to a proposed improvement where the cost is proposed to be

defrayed in whole or in part by special assessment have been filed with the City Assessor by the owners of more than one –half of the parcels to be assessed at or before the public hearing provided for in Section 232.03, the City Commission shall not proceed with the improvement except by the affirmative vote of 6 members of the City Commission.

- (d) **Waiver of Notice of Hearing.** The owner of record of any lot or premises may, at any time, execute, in writing, a "Waiver of Notice and Proceedings", and may file the same with the City Clerk, waiving any or all notice of hearing and other proceedings required in this chapter and in the City Charter and authorizing the City Commission to make such special assessment as the City Commission may determine against the owner and his or her property without further notice. The City Commission may thereupon, by resolution, authorize the City Manager to proceed with the improvement. Any special assessment so made shall, upon confirmation of the assessment by the City Commission, be considered the same as any other special assessment formally made under the City Charter, notwithstanding the omission of any notice or proceeding so waived.

(Ord. 819. Passed 1-5-09. Ord. 847. Passed 10-19-09.)

232.03 SPECIAL ASSESSMENT DISTRICT PROCEDURES

- (a) **Resolution on Public Improvement.** The City Commission may, by resolution determine to make an 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 derived or to be derived. By such resolution, the City Commission shall approve the preliminary plans for the improvement, determine the estimated cost thereof, determine what proportion of the cost of the improvement shall be paid by special assessment upon the property especially benefited and what proportion, if any, shall be a general obligation of the City, designate the special assessment district or land and premises upon which special assessments shall be levied and direct the City Assessor to prepare a special assessment roll in accordance with the City Commission's determination and to report the same to the City Commission for conformation. The City Commission may also direct the City Engineer to proceed with the preparation of final plans and specification for the improvement and may authorize the City Engineer to proceed with the advertising and taking of bids in accordance with City purchase requirements.
- (b) **Assessment of Engineering Costs.** In the event that an improvement for which a petition has been filed receive initiatory approval and hearing of necessity approval from the Commission but does not receive final construction approval, any cost incurred in the preparation of preliminary and final plans and specification may be assessed against the parcel of that would have benefited if the improvement had been made. Cost shall be assessed against the aforementioned parcels of land according to the provisions of this Chapter.
- (c) **Setting the Public Hearing.** Upon receipt of a special assessment roll, the Commission shall:
- (1) Order it filed in the office of the City Clerk for public examination,
 - (2) Fix the time and place when it will meet and review the roll and hear all persons interested in the necessity of the improvement,
 - (3) Direct the City Clerk to give notice of the hearing.
- (d) **Notice of Public Hearing.** The notice shall specify the time and place of the hearing and shall be published in the official newspaper of the City not less than 15 days prior to the date of the hearing. 15 days' notice shall also be sent by mail by the City Assessor to

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each owner of property subject to assessment, as indicated by the records of the City Assessor's office, but failure to send the notice to any owner of property shall not invalidate the proceedings or assessments. All notices shall state clearly the costs of the improvement are described in the roll and that they are either "estimated costs" or "final costs".

- (e) Objection to Roll. An owner of property to be assessed may file an objection to the improvement in writing with the City Clerk. No original assessment roll shall be confirmed except by the affirmative vote of six members of the City Commission if prior to the confirmation written objections to the proposed improvement have been filed by the owner of more than one-half of the property to be assessed.
- (f) Public Hearing and Approvals.
- (1) The City Commission shall meet and review the project specifications and the special assessment roll at the time and place appointed and shall hear all persons interested in the necessity of the improvements and all oral or written objections to it.
 - (2) The City Commission may correct the roll as to any assessment or description of any lot or tax parcel, or other errors appearing in it. Any changes made in the roll shall be noted in the minutes.
 - (3) After the hearing and review, the Commission may confirm the special assessment roll with the corrections as it may have made, if any, or may refer it back to the City Manager for revision or may annul it and any proceedings in connection with it.
 - (4) Upon confirmation of any special assessment roll, the Commission shall determine the number of installments in which the assessments may be paid and shall determine the rate of interest to be charged on installments but not to exceed six percent per annum.
 - (5) The Clerk shall endorse the date of confirmation upon each special assessment roll. The roll shall, upon confirmation, be final and conclusive.

(Ord. 819. Passed 1-5-09.)

232.04 PROCEDURE FOR ASSESSING SINGLE PARCELS.

When any expense is incurred by the City upon or in respect to any single lot or tax parcel, which expense is chargeable against it and the owner of it under the provisions of the Charter, this Code, or law of the State of Michigan and is not of that class required to be pro-rated among several lots and tax parcels in a special assessment district the following procedure shall be followed:

- (a) Preparation of Account. An account of the labor, material or services for which the expense was incurred, verified by the City Manager, with a description of the lot or tax parcel and the name of the owner, if known, shall be reported to the City Treasurer who shall immediately bill the owner, if known.
- (b) Notification of Assessment. The bill shall be sent by first class mail to the owner of the lot or tax parcel to be assessed and the bill shall notify the owner of the time of the meeting of the Commission, not sooner than 30 days thereafter, when the Commission will meet for the purpose of adopting a resolution placing a special assessment upon the lot or tax parcel for the charges unless the charges are paid prior to the date of the meeting.
- (c) Resolution of Special Assessment. At the meeting the Commission shall adopt, a special assessment resolution covering each lot or tax parcel for which charges have not been paid in full. As many lots or tax parcels may be included in a single resolution as shall be

convenient. Upon adoption of the resolution, the Commission may authorize installment payments, and if installment payments are authorized, shall determine the number of installments and the rate of interest to be charged, but not to exceed six percent per annum.

- (d) Notice of Resolution. Within seven calendar days after the adoption of the resolution, the Clerk shall give notice of the lot or tax parcel owners. The notice shall be sent by first class mail to the last known addresses of the persons as shown on the assessment records of the city, or by publication. The notice shall state the basis of the assessment, the amount, and shall give a reasonable time, not less than 30 days, within which payment shall be made to the Treasurer.
- (e) Placement of Lien on Tax Roll. In all cases where payment is not made within the time set, the fact shall be reported by the Treasurer to the Assessor, who shall charge the amounts, together with a penalty as allowed by Charter, against the persons or lots or tax parcels chargeable, on the next tax roll. The special assessment resolution shall be treated as a special assessment roll and the adoption of the resolution shall correspond to the confirmation of a special assessment roll.
- (f) Other Provisions Not Applicable. The provisions of the preceding sections of this chapter with reference to special assessments generally and the proceedings necessary before making the improvements, shall not apply to assessments contemplated under this section.

(Ord. 819. Passed 1-5-09. Ord. 990. Passed 4-17-14)

232.05 FINANCING AND PAYMENT.

- (a) Payment in Full. A property owner may pay the full assessment on all special assessment projects in cash and save the interest charges.
- (b) Payment in Full upon Transfer. Special assessment are payable in full upon transfer of title to the property and upon any land division or boundary adjustment.
- (c) Installment Payments. Installments, plus interest not to exceed 6% may be made on any unpaid balance, except as otherwise provided by law. The property owner may make full payment of the balance at any time during the assessment period, plus interest due on the date of such payment.
- (d) Installment Periods. The Installment period for improvements shall be as follows:
 - (1) Water Mains. Not to exceed 10 years.
 - (2) Sanitary Sewers. Not to exceed 10 years
 - (3) Storm Sewers. Not to exceed 10 years.
 - (4) Curb and Gutter. Not to exceed 20 years.
 - (5) Street. Not to exceed 20 years.
 - (6) Alley. Not to exceed 10 years.
 - (7) Sidewalks. Not to exceed 20 years.

(Ord. 819. Passed 1-5-09.)

232.06 ATTACHMENT OF LIEN

All special assessments contained in any special roll, including any part thereof deferred as to payment, 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 lots and parcels of land. Such line shall be of the same character and effect as the lien created for City taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the City Commission vacation a special assessment, shall destroy or impair the lien of the

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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.
(Ord. 819. Passed 1-5-09.)

232.07 COLLECTION OF SPECIAL ASSEMENTS

- (a) Installments. The special assessment roll shall be transmitted by the Clerk to the Treasurer for collection, immediately after its confirmation. The Treasurer shall divide the assessments into installments, when so ordered by the Commission; provided that, if such division operates to make any installment less than \$10.00, then the Treasurer shall reduce the number of installments so that each installment shall be above and as near \$10.00 as possible.
- (b) Delinquent Assessments. The Treasurer shall be charged with collecting all special assessments. After an assessment or any installment becomes delinquent, the Treasurer may add the entire assessment, with any interest, collection fee or penalty, to the annual tax bill of the City attributable to the lot or premises involved, or may collect it separately by the tax sale procedure.
- (c) Additional Remedies. In addition to any other remedies and without impairing the lien therefore, any delinquent special assessment in its entire amount, together with interest, collection fees and penalties, may be collected in an action at law in the name of the City against the person assessed or liable for the same, in any court having jurisdiction thereof.

(Ord. 819. Passed 1-5-09.)

232.08 STANDARDS FOR IMPROVEMENTS.

The Standards and Specifications for improvements made according to this Chapter shall be established by written policy of the City Engineer.

(Ord. 819. Passed 1-5-09.)