

Chapter 30

SPECIAL ASSESSMENTS*

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* **Charter reference** – Special assessments, art. X.

Cross references – Any ordinance levying or imposing any special assessment saved from repeal, § 1-11(a)(10); administration, ch. 2; community development, ch. 10; planning, ch. 26; streets, sidewalks and other public places, ch. 32.

State law references – Notices and hearings, MCL 211.741 et seq.; deferment of special assessment for homesteads, MCL 211.761 et seq.

SECONDHAND GOODS

Sec. 30-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost, when referring to the cost of any public improvement, shall include the cost of all 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.

Public improvement means any improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.

(Code 1972, § 31-2)

Cross reference – Definitions generally, § 1-2.

Sec. 30-2. Special assessments authorized.

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

(Code 1972, § 31.3)

Sec. 30-3. Preliminary determinations.

(a) Proceedings for making public improvements and defraying the entire cost or any part thereof by special assessment shall be initiated by resolution of the council. For the purposes of determining whether a sufficient number of property owners are interested in a public improvement, the council may require petitions from the owners of property and defray the entire cost and expense thereof or any part thereof by special assessment. The council shall be resolution direct the city clerk to make an investigation of the proposed public improvement and report his findings to the council. The report shall include an analysis of the following:

- (1) The estimated cost of the proposed public improvements; and

- (2) Plans and specifications for the public improvement.

- (b) There shall also be included recommendations as to the following:

- (1) 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;
- (2) The extent of the improvement and boundaries of the district; and
- (3) Any other facts or recommendations which will aid the council in determining whether the improvement shall be made and how the improvement shall be financed.

(Code 1972, § 31.4)

Sec. 30-4. Allocation of costs.

Upon receipt of the report of the city clerk pursuant to section 30-3, if the council shall determine to proceed with such improvement, it shall by resolution approve the report prepared by the city clerk and shall approve the plans and specifications and estimate the cost for the public improvement. In addition, by such resolution, the council shall determine to proceed with the public improvement, determine the necessity thereof and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, determine the part of proportion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part of proportion, if any, to be paid by the city at large for benefit to the city at large (if the improvement is to be an improvement to the water supply system of the city, the portion representing benefit to the city at large shall be paid from funds of the water supply system, and if the improvement is to be to the sewage disposal system of the city, the portion representing benefit to the city at large shall be paid by the sewage disposal system), and determine the number of installments in which the special assessment may be paid, and the rate of interest, which shall be a reasonable rate in light of the then

prevailing market factors, to be changed if the payment of any balance is to be deferred, and by the terms of the resolution shall direct the city assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands specially benefited according to benefits received and to report the same to the council.
(Code 1972, § 31.5; Ord. 135, 4-8-1991)

Sec. 30-5. Filing of roll; notice of public hearing.

(a) When the special assessment roll shall have been reported to the council, it shall order the roll filed in the office of the city clerk for public examination along with the report of the city clerk required to be made pursuant to section 30-3 and shall fix a date, time and place when the council shall meet and review the special assessment roll. The city clerk shall give notice of the meeting of the council to review the special assessment roll by publication at least once in a newspaper circulated in the city at least ten days prior to the time of such meeting, and shall further cause notice of the meeting to be mailed by first class mail to each property owner or party in interest in the special assessment district at the address as shown by the current assessment rolls of the city at least ten days prior to the time of the hearing, such notice to be mailed to the addresses shown on the current assessment rolls of the city.

(b) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which a protest shall be made.

(c) An owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment, or shall be permitted to file his appearance or protest by letter and his personal appearance shall not be required.

(d) The city council shall maintain a record of parties who appear to protest at the hearing.

If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance is recorded is considered to have protested the special assessment in person.
(Code 1972, § 31-6)

Sec. 30-6. Approval of assessments.

The council shall meet and review the special assessment roll at a time and place appointed or at an adjourned meeting thereof and shall consider any objections thereto. The council may correct the roll as to any assessment or description of any lot of parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the council's minutes. After such hearing and review the council may confirm such 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. The city clerk shall endorse the date of confirmation upon each special assessment roll.

(Code 1972, § 31.7)

Sec. 30-7. Objections by property owners.

No special assessment roll shall be finally confirmed except by the affirmative vote of five-sevenths of the councilmembers-elect if at or prior to the hearing written objections to the proposed improvement have been filed with the city clerk by more than 50 percent of the number of owners of privately owned real property to be assessed for the improvement, or, in the case of paving or similar improvements, more than 50 percent of the number of owners of frontage to be assessed for any such improvement, provided that this section shall not apply to sidewalk construction.

(Code 1972, § 31-8)

Sec. 30-8. Confirmation is conclusive.

The special assessment roll shall be, upon confirmation, final and conclusive.

(Code 1972, § 31.9)

Sec. 30-9. Contesting suits.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment unless the following prerequisites are observed:

- (1) Within 30 days after confirmation of the special assessment roll written notice shall be given the council by filing the same with the city clerk of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal; and

- (2) Such action shall be commenced within 60 days after confirmation of the roll.

(Code 1972, § 31.10)

Sec. 30-10. Assessments to constitute lien; payment; due dates.

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 general law for the state and county taxes and by the Charter for taxes and shall include accrued interest and fees. No judgment or decree or act of the council vacating a special assessment as may be equitably charged against the same or as by regular mode of proceeding might by lawfully assessed thereon. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments, not to exceed 30 in number, as the council may determine at the time of confirmation, and, if in annual installments, the council shall determine the first installment to be due upon confirmation and the second installment to be due on July 1 of the next succeeding calendar year, and subsequent

installments to be due on each succeeding July 1 until paid in full.

(Code 1972, § 31.11)

Sec. 30-11. Interest rate; delinquency.

(a) Should the council determine the assessment is to be paid in installments as specified in section 30-10, interest shall be charged at a rate not to exceed six percent per annum, commencing on confirmation and payable on the due date of each installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. Each property owner shall have 30 days from the date of confirmation to pay the full amount of the assessment, or the full amount of any installment thereof, without interest or penalty. Following such 30-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent, and the same penalties, collection fees and interest shall be levied on delinquent installments of such special assessments as are provided by the Charter to be collected upon delinquent city taxes.

(b) In addition, in case any assessment or any part thereof shall remain unpaid on the first Monday of May following the date when the assessment or part thereof became delinquent, the assessment shall be reported unpaid by the treasurer to the council, and such delinquent assessments, together with all accrued interest, shall be transferred and reassessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of city taxes.

(Code 1972, § 31.12)

Sec. 30-12. Statements.

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. 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, that 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.

(Code 1972, § 31.13)

Sec. 30-13. Collection.

Each special assessment shall be collected by the city treasurer with the same rights and remedies as provided in the Charter for the collection of taxes. Except as otherwise provided in this chapter, all collection fees and penalties shall belong to the city and be collectible in the same manner as the collection fee for city taxes.

(Code 1972, § 31.14)

Sec. 30-14. Payment of installments.

After the expiration of the period provided in section 30-11 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; provided, however, that if the public improvement has been financed by the sale of noncallable bonds or other evidences of indebtedness which are not prepayable, then the interest shall be computed from the date of confirmation to the date upon which such installment would have fallen due had it not been prepaid.

(Code 1972, § 31.15)

Sec. 30-15. Quarterly payment option.

The council may by resolution, upon confirmation of the assessment roll on or before the first meeting in January of any year, direct that the owners may pay any installment due and payable during that year or any succeeding year in quarterly portions, such portions to fall due as the council may direct, and, in such case, the

city treasurer shall, not later than 20 days after such direction, notify each owner of the option to pay such installment in the manner provided. The failure to mail any such notice shall not invalidate the assessment or any installment thereof. Interest on such installments shall be computed as if the entire amount were paid annually.

(Code 1972, § 31.16)

Sec. 30-16. Final accounting.

Upon completion of the improvement, the financing thereof and the payments of the cost thereof, the city clerk shall certify to the council the cost of the improvement together with the amount of the original roll for the improvement.

(Code 1972, § 31.17)

Sec. 30-17. Additional assessments.

Should the assessments in 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 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.

(Code 1972, § 31.18)

Sec. 30-18. Disposition of surplus revenue; refunds.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent the entire excess shall be refunded on a pro-rata basis to the owners of the property assessed as shown on the last tax roll. Such refund shall be made by credit against future unpaid installments to the

extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.

(Code 1972, § 31.19)

Sec. 30-19. Special assessment accounts.

Moneys raised by special assessments to pay the cost of any local public improvements shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this chapter.

(Code 1972, § 31.20)

Sec. 30-20. Division of affected land.

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 lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The city treasurer shall, within ten days after such apportionment, send notice of such action to the person concerned at his 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 20 days of the mailing of the aforesaid notice.

(Code 1972, § 31.21)

Sec. 31-21. Invalid assessments.

Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity of informality in the proceedings, or if any court or competent jurisdiction shall adjudge such assessment as 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 the power to cause a new assessment to be made for the same pur-

pose for which the former assessment was made. All proceedings on such reassessment and for collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any assessment or part thereof, levied upon any premises, has been set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment on such premises, and the reassessment shall to that extent be deemed satisfied.

(Code 1972, § 31.22)

Sec. 30-22. Individual assessment adjustment.

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.

(Code 1972, § 31.23)