

Chapter 66 SPECIAL ASSESSMENTS*

***Charter reference(s)**--Special assessments, ch. VII.

Cross reference(s)--Any ordinance levying or imposing any special assessments saved from repeal, ' 1-11(a)(10); finance, ' 2-301 et seq.; community development, ch. 26; taxation, ch. 78.

State law reference(s)--Permissible charter provisions relative to special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084; special assessment notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq.

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Sec. 66-1. 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 improvement, includes the cost of surveys, plans, rights-of-way, spreading of rolls, notices, advertising, financing and construction, and all other costs incident to the making of, the special assessment for, and the financing of such improvement.

Improvement means any public improvement any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefited thereby in proportion to the benefits to be derived from the improvement.

(Code 1971, ' 1.115)

Cross reference(s)--Definitions generally, ' 1-2.

Sec. 66-2. Council authority.

The council shall have power to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessment upon the property especially benefited.

(Code 1971, ' 1.116)

Sec. 66-3. Time of levy.

Special assessments to pay the estimated cost of any improvement may be levied before making such improvements, or after its completion, as may be determined by the council.

(Code 1971, ' 1.117)

Sec. 66-4. Initiation of proceedings.

Proceedings for making improvements may be initiated by resolution of the council or by petition of a majority of the owners of land liable to be assessed in any proposed special assessment district; provided, that all improvements shall be made at the discretion of the council and any petition shall be advisory only and not mandatory upon the council.

(Code 1971, ' 1.118)

Sec. 66-5. Preliminary proceedings.

Before determining to make any improvements any part of the cost of which is to be defrayed by special assessment, the council shall require the city manager to prepare, or cause to be prepared, plans and specifications and an estimate of the cost, and to file them with the council, together with his recommendation as to what portion of the cost should be paid by special assessment and what part, if any should be a general obligation of the city, the number of installments in which assessment may be paid, and the lands which should be included in the proposed special assessment district.

(Code 1971, ' 1.119)

Sec. 66-6. Filing of report.

Upon receipt of the report of the city manager, if the council shall determine to proceed with the improvement it shall so declare by resolution, stating the nature of the proposed improvement, the estimated cost, what portion of the cost shall be defrayed by special assessments, what portion of the cost, if any, shall be paid from the general funds of the city, designating the lands or premises to be included in the proposed special assessment district, and specifying whether special assessment shall be levied according to benefits or frontage. The council shall thereupon order the report filed with the city clerk for public examination and shall mail notice of its intention to make the improvement by certified return receipt mailing. The notice shall describe the property to be included in the proposed special assessment district, the nature of the improvements, the estimated cost of the same, what portion of the cost shall be defrayed by special assessment, and shall set a time not less than ten days following the date of mailing when the council will meet and hear objections to the proposed improvements or to the inclusion of any property within the proposed special assessment district. The notice shall be given by the city clerk by first class mail addressed to each owner of property proposed to be assessed, as indicated by the records of the office of the city assessor.

(Code 1971, ' 1.120)

Sec. 66-7. Notice of hearing.

After a filing pursuant to section 66-6, a public hearing shall be held before the council, which hearing shall be held not less than ten days after notice of the time and place of the hearing has been published and sent by the clerk by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(Code 1971, ' 1.121)

Sec. 66-8. Council determination.

After hearing any objections, the council may, by resolution, determine to make the improvements and to defray the whole or any part of the cost of the improvements by special assessment upon the property especially benefited in proportion to the benefits or the frontage. By such resolution, the council shall:

- (1) Approve the plans and specifications for the improvement;
- (2) Determine the estimated cost;
- (3) 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;
- (4) Determine the number of installments in which assessments may be paid;
- (5) Determine by resolution the rate of interest to be charged on installments;
- (6) Designate the district of land and premises upon which special assessment shall be levied; and
- (7) Direct the city assessor to prepare a special assessment roll in accordance with the determination of the council.

(Code 1971, ' 1.122)

Sec. 66-9. Completion of improvement before levy.

Any provisions of this chapter to the contrary notwithstanding, the council may, in its discretion, delay the preparation of the special assessment roll until after the completion of the improvements, in which case the special assessment roll shall then be made in accordance with the actual cost of the improvements.

(Code 1971, ' 1.123)

Sec. 66-10. Determination of actual cost.

Upon completion of the improvement and the payment of the cost, the city treasurer shall certify to the city manager the total cost of the improvement. The city manager shall forward this report to the council, who shall by resolution approve or disapprove. If approved, the council shall direct the city assessor to spread the amount of the exact cost of the improvement upon the special assessment roll.
(Code 1971, ' 1.124)

Sec. 66-11. Preparation of roll.

If the assessment is required to be made according to frontage, the city assessor shall assess to each lot, premises or parcel of land such relative proportion of the whole amount to be levied as the length of frontage of such premises abutting upon the improvement bears to the total frontage of all the lots or premises to be assessed unless the shape or size of any lot or premises shall make assessment in a different manner more equitable. If the assessment is directed to be according to benefits, the assessor shall assess to each lot, premises or parcel of land such relative proportion of the whole amount to be levied as shall be proportionate to the estimated benefit resulting to such lot or premises from such improvement. When the city assessor shall have completed the assessment roll, he shall report the roll to the council, together with his certificate that the assessment roll conforms to the direction of the council and the provisions of this Code.
(Code 1971, ' 1.125)

Sec. 66-12. Assessing single lots.

- (a) When any expense or cost shall have been incurred by the city upon or in respect to any single lot or premises, either by way of improvement, abatement of public hazards or nuisances, or otherwise, which expense or cost is chargeable against such lot or premises and its owner under the provisions of the Charter, or any ordinance of the city or law of the state, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district, an account of labor, material or service for which such expense or cost was incurred, with the description of the premises; and the name of the owner if known shall be reported to the city manager, who shall immediately charge and bill the owner if known. The city manager shall annually direct the city treasurer to prepare a special assessment roll covering all such charges which shall not have been paid. Such assessment rolls shall be reported to the council in the same manner as other rolls.
- (b) The provisions of this chapter with reference to special assessments generally and the proceedings and notice necessary to be had before making improvements shall not apply to assessments contemplated in this section.
- (c) Upon confirmation of any special assessment roll authorized by this section, the special assessments shall constitute a lien upon the premises and a charge against the owner until paid. The city council shall determine the number of

installments in which assessments may be paid and the rate of interest to be charged on installments.

(Code 1971, ' 1.126)

Sec. 66-13. Filing roll.

Upon receipt of the special assessment roll from the assessor, the council shall order it filed in the office of the city clerk for public examination, shall fix the time and place where it will meet and review the roll, and shall direct the city clerk to give notice of the hearing. Such notice shall set forth that the roll is on file for public examination, shall specify the time and place of the hearing on the roll, and shall be sent by certified return receipt mail not less than seven days prior to the date of the hearing, to each owner of property subject to assessment as indicated by the records of the office of the city assessor.

(Code 1971, ' 1.127)

Sec. 66-14. Aggrieved persons.

Any person deeming himself aggrieved by the special assessment roll may appear and be heard at the hearing specified in section 66-13.

(Code 1971, ' 1.128)

Sec. 66-15. Notice of hearing on roll.

Upon receipt of such special assessment roll, the council shall order it filed in the office of the clerk for public examination and shall fix the time and place when it will meet and review such roll, which meeting shall be held not less than ten days after notice has been sent by the clerk by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city. Such notice shall specify the time and place of such meeting. The council may, in its discretion, publish notice of the meeting not less than ten days prior to date of the meeting.

(Code 1971, ' 1.129)

Sec. 66-16. Confirmation of roll.

When any special assessment roll shall have been confirmed, such roll shall be final and conclusive.

(Code 1971, ' 1.130)

Sec. 66-17. Attachment of lien.

All special assessments contained in any special assessment roll, including any part 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 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. No judgment or decree nor any action 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 premises, or as by a regular mode of proceeding might be lawfully assessed.

(Code 1971, ' 1.131)

Sec. 66-18. Due date.

All special assessments shall be due and payable upon confirmation unless divided into installments by the council. If the assessment is divided into installments, the council shall fix the date on which each installment shall be due and payable; and it shall be the duty of the city treasurer to render annual statements for the respective installments.

(Code 1971, ' 1.132)

Sec. 66-19. Handling of assessment roll.

Upon confirmation, the assessment roll shall be transmitted by the clerk to the treasurer for collection; and the treasurer shall give notice by mail that the special assessment roll has been filed in his office, setting forth the date and place where payments may be paid. The whole or any part of any such special assessment may be paid during the period of 60 days from the date of confirmation of the special assessment roll without interest or penalty. At the expiration of the 60-day period, the treasurer shall divide any remaining balance of each assessment into such number of equal installments as shall have been fixed by the council; provided, that if such division operates to make any installment less than \$10.00, the treasurer shall reduce the number of installments so that each installment shall be above and as near to \$10.00 as possible.

(Code 1971, ' 1.133)

Sec. 66-20. Delinquent installments.

If any installment shall not be paid when due, the assessment shall be spread upon the next city tax roll in a column headed "Delinquent Special Assessments" together with interest upon all unpaid installments from the date of confirmation of the roll or the date of the last payment of interest as the case may be to and including May 30 of the year in which such tax roll is made. Any fraction of a month shall be considered as a full month.

(Code 1971, ' 1.134)

Sec. 66-21. Collection remedies.

Whenever a delinquent installment is placed on the tax rolls, the assessment shall be collected by the city treasurer with the same rights and remedies and the same

penalties and interest as provided in the Charter for the collection of taxes.
(Code 1971, ' 1.135)

Sec. 66-22. Deficiency assessments and refunds.

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, the council shall make additional assessments against the city and the several lots and parcels of land, in the same ratio as the original assessments, to supply the deficiency; but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement. The additional assessments may be made without further notice. Should the assessments levied prove to be more than five percent larger than necessary to defray the cost of the improvement, the council shall, by resolution, order the excess over five percent to be applied to the unpaid installments of the special assessment against each lot or parcel of land, in the inverse order in which they are payable. Any amount of such excess as to any lot or parcel of land which cannot be applied shall be credited upon the next city tax levied against the lot or parcel. Any excess less than five percent shall be credited to the general fund of the city.
(Code 1971, ' 1.136)

Sec. 66-23. Reassessment in event of illegality.

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 assessment has 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 its collection shall be conducted in the same manner as provided for the original assessment; and whenever the assessment, or any part of the assessment, levied upon any premises has been so set aside, if the assessment has been paid and not refunded, the payment so made shall be applied upon the reassessment; and the reassessment shall to that extent be deemed satisfied.
(Code 1971, ' 1.137)

Sec. 66-24. Collection by court action.

In addition to any other remedies and without impairing the lien, any delinquent special assessment, together with interest and penalties, may be collected in an action in assumpsit in the name of the city against the person assessed in any court having jurisdiction. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant or upon the 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 defendant or the premises in question, render judgment for the amount properly

chargeable against such defendant or upon such premises.
(Code 1971, ' 1.138)

Sec. 66-25. Division of land assessed.

Should any lot, premises or parcel of land be divided after a special assessment has been levied and confirmed and divided into installments, and before the collection of all the installments, the council may require the city assessor to apportion the uncollected amount upon the several parts of the lot, premises or parcel of land so divided. Upon receipt of the apportioned special assessment roll from the assessor, proceedings shall be taken leading to the review and confirmation of the roll as apportioned in the same manner as proceedings are taken for the review and confirmation of special assessments generally. When the special assessment roll as apportioned shall have been confirmed, it shall be conclusive upon all parties in interest.

(Code 1971, ' 1.139)