

## **CHAPTER VII. SPECIAL ASSESSMENTS**

### **POWERS**

*Section 7.1* The Council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense shall be defrayed by special assessment upon the property especially benefited, provided that, in each case, such special assessments shall be based upon or be in proportion to benefits derived or to be derived.

***Cross-reference:***

*Public improvements, see §§ 33.01 et seq. of the City Code*

***Statutory reference:***

*Special assessment hearings, additional state law requirements, see M.C.L.A. §§ 211.741 et seq.*

## **POWERS - LIMITATIONS**

*Section 7.2* The Council shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

7.2:1 For the payment of special assessments in annual installments not to exceed fifteen (15) in number, the first (1st) such installment to be due either upon confirmation of the special assessment roll or on the following July first (1st) and subsequent installments to be due on July first (1st) of succeeding years and to be placed upon the annual city tax roll, and for an interest charge until the due date of each such deferred installment not to exceed six per cent (6%) per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

7.2:2 For making additional pro rata assessments when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident thereto, provided that the additional pro rata assessment shall not exceed twenty five per cent (25%) 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 mailed as provided in the case of review of the original special assessment roll.

## **REQUIREMENTS**

*Section 7.3* The Council shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method.

Such ordinance shall be subject to the following provisions:

7.3:1 No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be enacted until cost estimates have been prepared and a public hearing has been held for the determination of the public necessity of such public improvement, which hearing shall be held not less than ten (10) days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

7.3:2 No special assessment roll shall be finally confirmed until after a meeting of the Council has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten (10) days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

7.3:3 No resolution determining the necessity of a public improvement to be financed in whole or in part by special assessment shall be adopted except by the affirmative vote of four (4) members of the Council if prior to the hearing on public necessity written objections to the public improvement have been filed by the owners of property in the district which will be required to bear more than fifty per cent (50%) of the amount of such special assessment.

7.3:4 No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

7.3:5 No special assessment district or districts shall be created by the Council for any one public improvement which includes property having an area in excess of twenty five per cent (25%) of the total area of the city. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

***Cross-reference:***

*Public improvements; special assessment procedures, see §§ 33.01 et seq. of the City Code*

## **EXCESS AND DEFICIENCY**

*Section 7.4* 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 per cent (5%) or less of the assessment, but should the assessment prove larger than necessary by more than five per cent (5%), the entire excess shall be refunded on a pro rate basis to the owners of the property assessed as shown by the current assessment roll of the city. 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.

## **INVALIDITY**

*Section 7.5* 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 the 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 or if the payments exceed the amount of the reassessment, refunds shall be made.

## **COURT JUDGMENTS**

*Section 7.6* No judgment nor any 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 regular mode of proceedings might have been lawfully assessed thereupon.

## **COURT ACTION - LIMITATION**

*Section 7.7* 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:

*7.7:1* Unless 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.

*7.7:2* Unless such suit or action shall be commenced within sixty (60) days after confirmation of the roll.

## **LIEN FOR PAYMENT**

*Section 7.8* Special assessments and all interest and charges thereon from the date of confirmation of the roll shall be and remain a lien upon the property assessed of same character and effect as the lien created by this charter for city taxes. The Council may provide for fees and penalties for late payment or nonpayment of special assessments, which fees and penalties shall be a lien and shall be collectible as are similar charges upon city taxes. Special assessments, together with any accrued fees, penalties and interest, shall be collected in the same manner as city taxes.

### ***Cross-reference:***

*Special assessment requirements; payments and penalties, see § 33.07 of the City Code*

## **RESTRICTIONS ON USE OF MONEY**

*Section 7.9* Except as otherwise provided in this charter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

## **REMOVAL OF NUISANCE OR HAZARD**

*Section 7.10* When any lot, building or structure within the city, because of the accumulation of refuse or debris, the uncontrolled growing of weeds, or age or dilapidation, or because of any other condition or happening, becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health or safety of the inhabitants of the city or those of them residing or habitually going near such lot, building or structure, the Council may after investigation, give notice to the owner of the land upon which such hazard or nuisance exists, or to the owner of the building or structure itself, specifying the nature of the hazard or nuisance, and requiring such owner to alter, repair, tear down, or remove same promptly and within a time to be specified by the Council, which shall be commensurate with the nature of the hazard or nuisance. If, at the expiration of the time limit in said notice, said owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the Council may order such hazard or

nuisance abated by the proper department or agency of the city which is qualified to do the work required, and the costs of such abatement, assessed against the lot, premises or description of real property upon which said hazard or nuisance was located.

***Cross-reference:***

*Nuisances, see Chapter 91 of the City Code*

*Code for the abatement of dangerous buildings, see § 150.14 of the City Code*

**MORTGAGE IN LIEU OF PAYMENT**

*Section 7.11* The Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and City Assessor, by reason of poverty, are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the city shall require mortgage security on the real property of the beneficiary, payable upon his death.

**NOTICE - FAILURE**

*Section 7.12* Failure to mail or receive any notice required to be so sent by this charter or by ordinance shall not invalidate any special assessment or special assessment roll.