

Chapter 20

SPECIAL ASSESSMENTS¹

Sec. 20-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Cost. The word “cost,” when referring to the cost of any improvement, shall include the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing and construction and all other costs incident to the making of such improvement, the special assessments therefore and the financing thereof.

Improvement. The word “improvement” shall mean 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 benefit to be derived therefrom.

(Code 1957, § 1.178)

Cross reference—Definitions and rules of construction generally, §§ 1-2.

Sec. 20-2. Council Authority.

The City Council shall have power to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessments upon the property especially benefited, but such determination shall not be made until the preliminary proceedings provided for in Section 20-4 shall have been completed.

(Code 1957, § 1.179)

Sec. 20-3. Advisory Petition.

The City Council, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvement to be made, may request and receive a petition therefore, or may receive such a petition voluntarily presented; but in either event, such petition shall be advisory only and shall not be jurisdictional, except in the case of installation of boulevard lighting systems.

(Code 1957, § 1.180)

Sec. 20-4. Preliminary Proceedings.

Before determining to make any improvement any part of the cost of which is to be defrayed by special assessment, the City Council shall require the City Manager to prepare, or cause to be prepared, plans and specifications therefore and an estimate of the cost thereof, and to file the

¹ **Cross references**—Any ordinance providing for local improvements and assessing taxes therefore saved from repeal, § 1-4(7); administration, Ch.2.

State law references—Notices and hearings, MCL §211. 741 et seq., MSA §5.3534(1) et seq.; deferment for older persons, MCL §211.761 et seq., MSA §5.3536(1) et seq.

same with the City Clerk together with his recommendation as to what proportion 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 assessments may be paid and the lands which should be included in the special assessment district. After the report is filed with the Clerk, it shall be available to the public for inspection.
(Code 1957, § 1.181)

Sec. 20-5. First Public Hearing.

After the filing under Section 20-4, a public hearing shall be held before the City Council at a time and place to be fixed by it. The City Clerk shall cause notice of the time and place of such hearing to be given to each owner of or party in interest in property to be assessed, whose name appears upon the last local tax assessment records, by mailing by first class mail addressed to such owner or party at the address shown on the tax records, at least ten (10) days before the date of such hearing. Such notice shall also state that the report, plan and estimate is on file with the City Clerk for public examination. The last local tax assessment records means the last assessment roll for ad valorem tax purposes which has been reviewed by the Board of Review, as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed thereon. Any failure to give notice as required in this section shall not invalidate an entire assessment roll but only the assessments on property affected by the lack of notice. In no case shall any special assessment be declared, invalid as to any property if the owner or the party in interest thereof has actually received notice, has waived notice, or has paid any part of the assessment. If any assessment is declared void by court decree or judgment, a reassessment against the property may be made. At the time and place specified in such notice for the public hearing, the Council shall meet and hear any person to be affected by the proposed public improvement. The hearing may be adjourned from time to time.
(Code 1957, § 1.182)

State law reference-Similar provisions, MCL §211.741 et seq., MSA §5.3534(1) et seq.

Sec. 20-6. Council Determination.

After completion of the hearing under Section 20-5, the City Council may, by resolution, determine to make the 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 thereto. By such resolution the Council shall approve the plans and specifications for the improvement; determine the estimated cost thereof; 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; designate the district or land and premises upon which special assessments shall be levied; and direct the assessor to prepare a special assessment roll in accordance with the Council's determination.
(Code 1957, § 1.183)

Sec. 20-7. Preparation of Roll.

The City Assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the City Council, and shall

assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the City at large, if any.
(Code 1957, § 1.184)

Sec. 20-8. Filing Roll.

When the City Assessor shall have completed the assessment roll, he shall attach thereto, or endorse thereon, his certificate to the effect that the roll has been made by him pursuant to a resolution of the City Council (giving date of adoption of same) and that in making the assessments therein he has, as near as may be, according to his best judgment, Conformed in all respects to the directions contained in such adoption of same) and that in making the assessments therein he has, as near as may be, according to his best judgment, conformed in all respects to the directions contained in such resolution, and to the Charter and the provisions of this chapter. Thereupon he shall file the special assessment roll with the Clerk who shall present the same to the Council.
(Code 1957, § 1.185)

Sec. 20-9. Second Hearing.

Upon receipt of a special assessment roll, the City Council shall order it filed in the office of the City Clerk for public examination; shall fix the time and place when it will meet and review such roll; and shall direct the City Clerk to give notice of the hearing. Notice of hearings in special assessment proceedings shall be given to each owner of or party in interest in property to be assessed, whose name appears upon the last local tax assessment records, by mailing by first class mail addressed to such owner or party at the address shown on the tax records, at least ten (10) days before the date of such hearing. The last local tax assessment records mean the last assessment roll for ad valorem tax purposes which have been reviewed by the local board of review, as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed thereon. Any failure to give notice as required in this section shall not invalidate an entire assessment roll but only the assessments on property affected by the lack of notice. In no case shall any special assessment be declared invalid as to any property if the owner or the party in interest thereof has actually received notice, has waived notice, or has paid any part of the assessment. If any assessment is declared void by court decree or judgment, a reassessment against the property may be made.
(Code 1957, § 1.186)

Sec. 20-10. Objections to Roll.

Any person deeming himself aggrieved by the special assessment roll may file his objections thereto in writing with the City Clerk prior to the close of the hearing, which written objections shall specify in what respect he deems himself aggrieved. No original special assessment roll shall be confirmed except by the affirmative vote of four (4) members of the City Council if prior to such confirmation written objections to the proposed improvement have been filed by the

owners of property which will be required to bear over fifty (50) percent of the amount of such special assessment.

(Code 1957, § 1.187)

Sec. 20-11. Confirmation.

The City Council shall meet and review the special assessment roll at the time and place appointed, or at an adjourned date therefore, and shall consider any written objections thereto. The Council may correct the roll as to any assessment or description of any lot or 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 and any proceedings in connection therewith. Upon confirmation of any special assessment roll the Council shall determine the number of installments, not to exceed fifteen (15), in which the assessments may be paid, and shall determine the rate of interest to be charged on installments but not to exceed the maximum legal interest. The City Clerk shall endorse the date of confirmation upon each special assessment roll. Such roll shall, upon confirmation, be final and conclusive.

(Code 1957, § 1.188)

Sec. 20-12. Assessing Single Lots.

When any expense shall have been incurred by the City upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of the Charter, this Code, 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 the labor, material or service for which such expense was incurred, and the name of the owner, if known, shall be reported to the City Treasurer who shall immediately charge and bill the owner, if known. Such bill shall be sent by first class mail to the owner of the property to be assessed and such bill shall notify the owner of the time of the meeting of the Council, not sooner than thirty (30) days thereafter, when the Council will meet for the purpose of adopting a resolution placing a special assessment upon the property for such charges unless the same are paid prior to the date of such meeting. At such meeting the Council shall adopt, in accordance with Section 11.9 of the Charter, a special assessment resolution covering each parcel of land for which such charges have not been theretofore paid in full. As many parcels may be included in a single resolution as shall be convenient. The Council may include in such special assessment resolution an additional charge of fifteen (15) percent of the amount to be assessed to cover the cost and expense of such procedure. Upon adoption of such resolution the Council may authorize installment payments, and if installment payments are authorized, shall determine the number of installments and the rate of interest to be charged thereon, but not to exceed the maximum legal interest.

(Code 1957, § 1.189; Ord. No. 67, § 1, 7-1-75)

Sec. 20-13. General Procedure Inapplicable.

The special assessment resolution shall be treated as a special assessment roll and the adoption of such resolution shall correspond to the confirmation of a special assessment roll. The provisions of the preceding sections of this chapter with reference to special assessments generally and the proceedings necessary to be had before making the improvements, shall not apply to assessments contemplated under Section 20-12. Sections 20-14 and the following sections of this chapter shall, however, be applicable to the special assessment resolution.
(Code 1957, § 1.190)

Sec. 20-14. Attachment of Lien.

All special assessments contained in any special assessment 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 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 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.
(Code 1957, § 1.191)

Sec. 20-15. Due Date.

Unless otherwise provided in the resolution confirming the assessment roll, the assessment, or the first installment thereof, if divided into installments, shall be due and payable on confirmation of the roll.
(Code 1957, § 1.192)

Sec. 20-16. Handling of Assessment Roll.

The assessment roll shall be transmitted by the City Clerk to the City Treasurer for collection immediately after its confirmation. The Treasurer shall divide the assessments into installments when so ordered by the City Council; provided, that if such division operates to make any installment less than ten dollars (\$10.00), then the Treasurer shall reduce the number of installments so that each installment shall be above and as near to ten dollars (\$10.00) as possible. The Treasurer shall mail statements of the several assessments to the respective owners, as indicated by the records of the assessor, of the several lots and parcels of land assessed, 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 1957, § 1.193)

Sec. 20-17. Delinquent First Installment.

Every special assessment, or the first installment thereof, when divided into installments, shall bear interest at the rate of one-half of one percent per month, or fraction of month, from its due date if not paid within thirty (30) days after the same is due, until May first of the year following the due date, at which time it shall be spread, together with interest accrued on such installment, on the tax roll for that year.

(Code 1957, § 1.194)

Sec. 20-18. Early Payment.

The whole of any assessment, or one or more full installments thereof, may be paid during the first thirty (30) days after the same shall be due, without interest or penalty. After the expiration of this thirty (30) day period, the second and subsequent installments, not yet spread on a regular tax roll, may be discharged by paying the face amount of such installment, plus interest thereon, computed to the following September first. The City Treasurer shall report to the City Assessor all advance payments on installments so that the Assessor shall have such information before spreading installments on the next city tax roll.

(Code 1957, § 1.195)

Sec. 20-19. Second and Subsequent Installment.

The second and subsequent installments shall be spread annually on each succeeding year's regular city tax roll, beginning with the second installment which shall be spread on the tax roll for the year following the year in which the first installment was due. In addition, there shall be added to each annual installment and spread on the roll as a part of such installment, the interest due on the unpaid portion of the assessment computed to September first of the year of the tax roll; provided, that when any annual installments shall have been prepaid as herein provided, then there shall be spread upon the tax roll for such year, only the interest upon all unpaid installments. After each installment has been placed on the tax rolls, the same shall be collected by the City Treasurer with the same rights and remedies, as provided in the Charter for the collection of taxes.

(Code 1957, § 1.196)

Sec. 20-20. Determining Actual Cost.

Upon completion of the improvement and payment of the cost thereof, the City Manager shall certify the total cost of the improvement to the City Council, together with the amount of the original roll for the improvement.

(Code 1957, § 1.197)

Sec. 20-21. 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, then the City Council shall make additional assessments against the City and the several lots and parcels of land within the special assessment district, 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. Should the assessments levied prove to be more than five (5) percent larger than necessary to defray the cost of the improvement, then the Council shall, by resolution, order the excess over five (5) percent to be applied to 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 as aforesaid shall be refunded in cash.
(Code 1957, § 1.198)

Sec. 20-22. Reassessment in Event of Illegality.

Whenever any special assessment shall, in the opinion of the City 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 the collection thereof shall be conducted in the same manner as provided for in the original assessment; and whenever the assessment, or any part thereof, levied upon any premises has been so set aside, if the same 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 1957, § 1.199)

Sec. 20-23. Collection by Court Action.

In addition to any other remedies and without impairing the lien therefore, 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 of the amount. 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 1957, § 1.200)