

## CHAPTER X. - SPECIAL ASSESSMENTS

## Section 1. - Power; costs; public improvement defined.

Subject to the restrictions hereinafter provided, the commission shall have power to provide for the payment of all or any part of the cost of a public improvement by levying and collecting special assessments upon property specially benefited. Such assessments shall be according to benefits. The cost of surveys and plans for a public improvement and all expenses incident to the proceedings for the making of such improvement and the special assessment therefor, shall be deemed to be a part of the cost thereof. If the cost of such public improvement has not been definitely determined, then the assessment may be made upon the basis of the estimated cost. The term "public improvement" as herein used shall include the reconstruction in whole or in part of any structure or work as well as the original construction thereof.

**State Law reference—** Permissible that charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

## Section 2. - Initiation of proceedings.

Proceedings for the making of public improvements within the city may be commenced by resolution of the Commission, on its own initiative, or by an initiatory petition signed by property owners whose aggregate property in the special assessment district was assessed for not less than sixty (60) per cent of the total assessed value of the privately-owned real property located therein, in accordance with the last preceding general assessment roll; provided, however, that in case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by owners to the extent of at least sixty per cent (60%) of the frontage of property to be assessed. If it shall appear that such petition was not signed by a sufficient number of property owners, then the petition shall not be presented to the Commission by the Clerk. Such petition, in addition to the signatures of the owners, shall contain a brief description of the property owned by the respective signers thereof. Such petition shall be verified by the affidavit of some person or persons with knowledge that said signers are such owners and that such signatures are genuine. The initiatory petition herein referred to shall be addressed to the commission and filed with the Clerk. Such petition shall in no event be mandatory upon the Commission.

## Section 3. - Declaration by resolution.

When the commission shall determine to make any public improvement and defray the whole or part of the cost thereof, by special assessment, it shall so declare by resolution, stating the nature of the improvement and what part or proportion of the cost thereof shall be paid by special assessment, and what

part, if any, shall be paid from the general funds of the city, and shall designate the district or lands and premises upon which the special assessment shall be levied.

#### Section 4. - Designation of special assessment district.

When any special assessment is to be made upon the lands and premises in any special assessment district, the commission shall by resolution direct the same to be made by the assessor and shall state therein the total amount to be assessed, based upon an estimate of the cost thereof submitted by the city engineer, and describe or designate an assessment district comprising the lands and premises to be assessed.

#### Section 5. - Preparation of assessment roll.

Upon receiving such orders and direction, the assessor shall make out an assessment roll, entering and describing therein all the lots and parcels of land to be assessed, with the names of the respective owners thereof, and shall levy thereon and against said several lots and parcels of land the amount to be assessed against the private property. The amount spread in each case shall be based upon the detailed estimate of the City engineer as approved by the Commission. In no case shall the whole amount to be levied by special assessment upon any lot or premises for any one improvement exceed twenty-five per cent (25%) of the value of such lot or parcel of land exclusive of improvements thereon, as valued and assessed in the last preceding city tax roll. Any cost exceeding that per cent, which would otherwise be chargeable on any such lot or parcel of land, shall be paid by the city at large. If the assessment is to be payable in installments, then he shall specify in said roll the amount of the total assessment against each lot or parcel of land and the amount of each installment thereof. If the city at large has assumed a portion of the cost of such improvement and the same is payable in installments, then the assessor shall likewise assess such portion to the city at large. In all cases where the ownership of any description is unknown to the assessor he shall, in lieu of the name of the owner, insert the word "unknown" and if by mistake or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land, or if the same shall be assessed without the name of the owner, or with the name of a person other than the owner, such assessment shall not for such cause be vitiated, but shall, in all respects, be as valid upon and against such lot or parcel of land as though assessed in the name of the property owner. When the assessment shall have been confirmed, it shall be a lien on each such lot or parcel of land and shall be collected as in this charter provided. Such liens shall have the same priority rights as tax liens upon real property.

#### Section 6. - Division of assessment according to benefit received.

The assessor shall assess upon each lot or parcel of land, such relative portion of the whole sum to be levied against all lots and parcels of land as shall be proportionate to the estimated benefit resulting to such lot or parcel of land from the improvement.

Section 7. - Certificate of completed assessment roll.

When the assessor shall have completed the assessment roll, he shall report the same to the commission. Such report shall be signed by him, and may be in the form of a certificate, endorsed on the assessment roll, as follows:

STATE OF MICHIGAN  
CITY OF BLOOMFIELD HILLS—ss.

To The Commission  
of  
The City of Bloomfield Hills

I hereby certify and report that the foregoing is a special assessment roll made by me pursuant to a resolution of the commission of said city, adopted (give date), for the purpose of paying the cost for the (insert here object of the assessment); that in making such assessment I have, as near as may be, according to my best judgment, conformed in all things to the direction contained in the resolution of the commission hereinbefore referred to, and the charter of the city relating to such assessment.

|             |                   |
|-------------|-------------------|
| Dated _____ | _____<br>Assessor |
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Section 8. - Single lot assessment.

When any expense shall be incurred by the city upon or in respect to any separate or single lot or parcel of land which, by the provisions of this charter, the commission is authorized to charge and collect as a special assessment against the same, and not being that class of special assessments required to be made pro rata upon the several lots or parcels of land in a special assessment district, an account of the labor, material or services for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, or person chargeable therewith, if known, shall be reported to the commission in such manner as it shall prescribe. The provisions of the preceding sections of this chapter with reference to special assessments generally, shall not apply to assessments to cover the expense incurred in respect to that class of improvements contemplated in this section.

Section 9. - Commission determination of expenses charged.

The commission shall determine what amount or part of every such expense shall be charged, and the person, if known against whom and the premises upon which the same shall be levied as a special assessment, and as often as the commission shall deem it expedient it shall require all of the several amounts so reported and determined, and the several lots or parcels of land and the persons chargeable therewith respectively, to be reported by the clerk to the assessor for assessment.

Section 10. - Levy of special assessment.

Upon receiving the report mentioned in the preceding section, the assessor shall make a special assessment roll, and levy as a special assessment therein, upon each lot or parcel of land so reported to him and against the persons chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid to be levied upon each of such lots or parcels of land respectively, and when completed he shall report the assessment to the commission and thereupon the same proceedings shall be had and with like effect as is provided in this chapter for special assessments in other cases.

Section 11. - Filing of assessment roll in clerk's office; notice of hearing.

When any special assessment roll shall be reported by the assessor to the commission, as in this charter directed, the same shall be filed in the office of the clerk and numbered consecutively. Before confirming such roll, the commission shall cause the estimate of cost submitted by the city engineer and also plans, when practicable, of the work and of the locality to be improved, to be deposited with the clerk for public examination, and shall appoint a time when the commission will meet and review such assessment as well as the necessity for the improvement and shall cause a notice of such hearing and of the filing of such assessment roll, estimate and plans, to be published twice prior to such hearing, in a newspaper circulating in the city, the first publication to be at least ten (10) days before such hearing. Such notice shall also be mailed by the clerk at least five (5) days before such hearing to each person whose name appears in said special assessment roll as the owner of property assessed therein, at the address appearing in said roll. The affidavit of the clerk as to such mailing shall be conclusive proof thereof and in such affidavit it shall not be necessary to list the names of such owners but to refer to them generally. If the address of any person is marked unknown in said roll, then no notice need be sent such person. Any person objecting to the improvement or the assessment may appear at said hearing to state such objection and may, if he desire, file such objection in writing with the clerk. The notice provided for in this section may be in the following form:

"Notice of Special Assessment"

Notice is hereby given that an estimate of the cost of (state the nature of the improvement and its locality in general terms) together with the plans thereof (Note—if plans not included because not practicable, omit the preceding five words) as well as the special assessment roll heretofore made by the

assessor for the purpose of defraying the cost of such improvement, are now on file in my office for public inspection.

Notice is also hereby given that the commission of the City of Bloomfield Hills will meet at \_\_\_\_\_ in said city on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., to review said assessment and the necessity therefor, at which time and place opportunity will be given to all persons interested to be heard.

|             |                     |
|-------------|---------------------|
| Dated _____ | _____<br>City Clerk |
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**Editor's note**— MCL 211.741, MSA 5.3534(1), supersedes any charter requirements for mailing notice of special assessment hearings.

Section 12. - Review of assessment roll; confirmation.

At the time and place appointed for the purpose as aforesaid, the commission shall meet and then and there, or at some adjourned meeting, or both, hear any objections which may be made and review the necessity for the improvement and the assessment roll and may determine not to make such improvement or may correct said roll as to any assessment, description or premises, or other matter appearing therein, and may confirm it as reported or as corrected, or it may refer the assessment roll back to the assessor for revision, or it may annul it and direct a new assessment, in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment roll shall be confirmed, the clerk shall make an endorsement thereon showing the date of confirmation.

Section 13. - Confirmation of assessment roll conclusive; exception.

When any assessment roll shall be confirmed by the commission it shall be final and conclusive unless within ten (10) days after such confirmation, action is instituted in the Circuit Court for the purpose of contesting such assessment roll.

Section 14. - Lien on land assessed.

All special assessments, including deferred payments, shall from the date of confirmation thereof, 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, as assessed.

Section 15. - Payment in installments.

All special assessments shall be payable in such number of approximately equal installments, not exceeding twenty (20), as the commission may determine. The first installment of a special assessment shall be due and paid within thirty (30) days after confirmation and one installment shall be due and paid each year thereafter upon the same day of the year as that upon which the roll was confirmed, with annual interest upon all unpaid installments to be fixed by the commission at a rate not exceeding six per cent (6%) per annum, provided that no interest shall be charged upon any amount paid within thirty (30) days after confirmation. The whole assessment against any lot or parcel of land may be paid to the city treasurer at any time in full with accrued interest and penalties thereon. If any special assessment or any installment of a special assessment is not paid when due, then such assessment or installment shall be deemed to be delinquent and there shall be collected thereon in addition to interest a penalty at the rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) for each month or fraction thereof that the same remains unpaid before reported to the commission for the purpose of being reassessed upon the city tax roll.

#### Section 16. - Reassessments.

In all cases of special assessment of any kind against any property where any such assessments shall have failed to be valid in whole or in part, the commission shall be and it is hereby authorized to cause to be reassessed such special assessment, and to enforce their collection; and it is further provided that whenever for any cause, mistake or inadvertance, the amount assessed shall not be sufficient to pay that portion of the cost of the improvement which the commission has determined should be assessed against the property and the owners of property in the special assessment district, then it shall be lawful, and the commission is hereby directed and authorized to cause to be made an additional assessment upon all the property in such special assessment district to pay for such deficit; and the commission is authorized to continue requiring such re-assessment or additional assessment until a valid and sufficient assessment shall have been made.

#### Section 17. - Nothing shall impair lien.

No judgment or decree, nor any act of the commission 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 have been lawfully assessed thereon.

#### Section 18. - Direction to collect; warrant.

When any special assessment shall be confirmed, the commission shall direct the assessment so made in the special assessment roll, to be collected. The city clerk shall thereupon deliver to the city treasurer said special assessment roll to which he shall attach his warrant commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein, and in case any person named in said roll shall neglect or refuse to pay his assessment, or any part

thereof, upon demand, after the same has become due, then to levy and collect the same by distress and sale of the goods and chattels of such person. Said warrant shall require the city treasurer to make and to submit to the commission at its first meeting in May of each year, a sworn statement of all assessments or parts thereof in said roll which are delinquent on the first day of May of that year, which shall include a list of persons delinquent, if known, a description of the lots and parcels of land upon which the assessments remain unpaid, and the amount unpaid on each inclusive of accrued interest and penalty.

Section 19. - Collection by treasurer; seizure and levy upon personal property for failure to pay.

Upon receiving said special assessment roll and warrant the treasurer shall proceed to collect the amount assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the city or elsewhere within the State of Michigan, belonging to such person, and sell the same at public auction.

Section 20. - Report of unpaid assessments; delinquent penalties.

In case any assessment, or any part thereof, shall remain unpaid on the first day of May following the date when the same became delinquent, and shall be reported unpaid by the treasurer to the commission as aforesaid, the same, together with all accrued interest and penalty, shall be transferred and re-assessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of ten per cent (10%) upon such total amount added thereto, and when so transferred and re-assessed upon said tax roll shall be collected and paid in all respects as provided for the collection of city taxes.

Section 21. - Moneys held in special fund for local improvements; surplus.

Moneys raised by special assessment to pay the cost of any local improvements shall be held as a special fund to pay such cost or to repay money borrowed therefor. If there be a surplus, then such surplus shall be refunded pro rate as follows: Where the assessment has been paid in full, by a refund in cash to the owner of the premises at the time the refund was ordered made, and where the assessment has not been paid in full by credit on the assessment roll.

Section 22. - Division of improvements into parts.

The commission may divide any improvement into parts or sections and provide for separate construction of such parts or sections and may establish a separate special assessment district for each part or section and may issue bonds against such separate district.

Section 23. - Proposals required prior to making improvements.

No improvement, any part of the cost of which is to be assessed to a special assessment district, shall be made until the commission has first advertised for proposals for making such improvement, and receive and opened the same, if any. The commission may reject any and all of such proposals and may in its discretion make such improvement by the proper officers and agents of the city.

Section 24. - Apportionment for divided lot or parcel.

Should any lot or parcel of land be divided after a special assessment thereon has been confirmed and before the collection of all the installments, the commission may require the assessor to apportion the uncollected amounts upon the several parts of such lot or parcel of land so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties and all assessments thereafter made upon such lots shall be according to such division.

Section 25. - Payment of city's portion in installments.

Whenever any portion of the cost of any improvement shall be assumed by or charged to the city at large and the balance of such cost assessed to the property benefitted, then the commission may provide for the payment of the city's portion of such cost in installments in the same manner as shall be provided for the payment of the portion assessed to the benefitted property.