

roll and thereafter be paid as otherwise provided for payment of assessments as provided in subsection 90-114(d).

(Code 1976, § 6-12.17)

Sec. 90-31. Hazards and nuisances.

(a) *Notice to remove.* Whenever 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 city council, a public hazard or nuisance that is dangerous to the health or safety of the city inhabitants 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 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 the hazard or nuisance promptly and within a time to be specified by the council, which shall be commensurate with the nature of the hazard or nuisance.

(b) *Abatement by city.* If, at the expiration of the time limit on the notice, the owner has not complied with the requirements thereof or when the owner of the land or of the building or structure itself is not known, the council may order such a hazard or nuisance abated by the proper city department or agency which is qualified to do the work required and the costs of such abatement assessed according to section 90-30 against the lot, premises or description of real property upon which the hazard or nuisance was located.

(Code 1976, § 6-12.16)

Charter reference—Nuisances and hazards, § 6.3.

Secs. 90-32—90-60. Reserved.

DIVISION 2. PROCEDURE

Sec. 90-61. Initiation of improvement.

(a) *Generally.* Proceedings for the making of public improvements within the city may be commenced by resolution of the city council, on its own initiative.

(b) *Request and/or receipt of petitions.* The 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 therefor, or may receive a petition voluntarily presented.

(c) *Petitions advisory.* The council shall give careful consideration and review to any petition received, but any petition shall be advisory only and shall not be jurisdictional. Petitions shall not be mandatory upon the council.

(Code 1976, § 6-12.04)

Sec. 90-62. Petitions.

(a) *Form and content.* All petitions made pursuant to this division shall be circulated and signed on blank forms furnished by the city clerk. Such petitions shall contain, in addition to the signature of the owners, a brief description of the property owned by the respective signers thereof.

(b) *Affidavit of ownership.* Such petitions shall be verified by the affidavit of one or more of the owners or by some person with knowledge that the signers are such owners and that such signatures are genuine.

(c) *Filing.* Petitions shall be addressed to the council and filed with the city clerk.

(d) *Referral to assessor.* All petitions shall be referred by the city clerk to the assessor. The city assessor shall check the petitions to determine whether they conform to the requirements of this section and shall report the findings to the city council.

(Code 1976, § 6-12.05)

Sec. 90-63. City engineer's report.

(a) *Survey.* Before the city council shall decide on making any local or public improvement, it shall be referred by resolution to the city engineer directing the preparation of a report which shall include necessary plans, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the proposed assessment district, in the case of a continuing assessment for boulevard lighting, the estimated annual cost of the operation and maintenance of

the improvement, and such other pertinent information as will permit the council to decide the cost, extent and necessity of the improvement proposed and what part or proportion, if any, thereof should be paid by the city at large.

(b) *Costs of condemned property.* Whenever any property is acquired by condemnation or otherwise, for the purpose of any public improvement, the cost thereof and of the proceedings required to acquire such property may be added to the cost of such public improvement. (Code 1976, § 6-12.06)

Sec. 90-64. Tentative determination.

(a) *Council resolution to proceed.* After the filing of the city engineer's report required by section 90-63 and prior to the holding of the public hearing as required by section 90-65, the council may, by resolution, tentatively determine to proceed with the improvement, setting forth the nature thereof, and causing the information contained in the report of the city engineer to be filed in the office of the clerk for public examination.

(b) *Notice of public hearing.* The resolution provided for in subsection (a) of this section shall set a time and place for a public hearing on the advisability of proceeding to establish a special assessment district for the making of such public improvement, which hearing shall be held not less than ten days after notice thereof has been given as provided in sections 90-73 and 90-74. (Code 1976, §§ 6-12.07.01, 6-12.07.02)

Sec. 90-65. Hearing on necessity.

The hearing required by section 90-64 may be held at any regular or special meeting of the council. At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard. (Code 1976, § 6-12.07.03)

Sec. 90-66. Final determination.

(a) *Deferral before proceeding.* No sooner than the time period for filing objections following the hearing pursuant to section 90-65, the city council may determine to proceed or to modify the scope of the public improvement, if necessary, in such a

manner as it shall deem to be in the best interest of the city as a whole, provided that if the amount of work is increased or additions are made to the district, another hearing shall be held pursuant to notice as prescribed in sections 90-73 and 90-74.

(b) *Ending procedure.* A decision by the council to end the procedure may be made immediately following the public hearing, without waiting the time period for filing objections. (Code 1976, §§ 6-12.08.01—6-12.08.03)

Sec. 90-67. Resolution to proceed.

If the determination of the council shall be to proceed with the public improvement, a resolution shall be passed as follows:

- (1) Determining the necessity of the improvement. If the improvement is the installation of boulevard lighting, the council shall also determine the necessity of operation and maintenance of the improvement.
- (2) Approving the necessary plans, specifications and detailed estimates of cost. If the improvement is the installation of boulevard lighting, the council shall also approve the projected cost formula to be utilized in computing continuing assessments for operation and maintenance of the improvement.
- (3) Prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefitted, determination of benefits received by affected properties and what part or proportion, if any, shall be paid by the city at large.
- (4) Delineating the limits of the special assessment district.
- (5) Determining the method to be used to make the assessment.
- (6) Directing the assessor to prepare a special assessment roll in accordance with the council's determination and report the

roll for confirmation. The assessor shall file the roll with the city clerk for presentation to the council.

(Code 1976, § 6-12.08.04)

Sec. 90-68. Modification of resolution.

The council may modify the resolution to proceed adopted pursuant to section 90-67 at any time. However, if any modification increases the cost or scope of the improvement or adds to the assessment district, a new hearing shall be held and notice given as prescribed in sections 90-64, 90-65, 90-73 and 90-74.

(Code 1976, § 6-12.08.05)

Sec. 90-69. Objections to improvement.

(a) *Notice of proposed special assessment.* After the public hearing on necessity has been held by the city council pursuant to section 90-65, the city clerk shall send notice of the proposed special assessment to all property owners within the proposed special assessment district, advising them of such proposed special assessment and of the procedure by which objections to such special assessment may be filed as provided in this section.

(b) *Written petitions submitted.* If, after the public hearing has been held by the city council pursuant to section 90-65, there is a desire by the property owners within the limits of the proposed special assessment district to terminate the project, written petitions objecting to the proposed improvements shall be available from the city clerk's office commencing on the 14th day after the public hearing. Such petitions shall be circulated for a period not to exceed 14 days, which period shall commence on the 14th day after the public hearing. The signed petitions shall be delivered to the city clerk no later than 12:00 noon on the 28th day, or the next city business day if the offices are closed on the 28th day, immediately following the public hearing.

(c) *Basis for objection voted on by council.* The improvement shall not be made by proceedings authorized by this article without a four-fifths vote of the members of the council then serving in office if, within the time period for filing objec-

tions as provided for in this section, the owners of more than 50 percent of the following shall object in writing to the proposed improvement:

- (1) The total land area;
- (2) Front footage; or
- (3) Number or parcels or units to be assessed, as determined by the council in a resolution adopted following the public hearing held pursuant to section 90-65.

(Code 1976, § 6-12.09)

Sec. 90-70. Deviation from plans and specifications.

(a) *Authorized by council.* No substantial deviation from original plans or specifications as adopted under this article shall be permitted by any officer or employee of the city without authority of the city council by resolution.

(b) *Certification of resolution.* A copy of the resolution authorizing such changes or deviation shall be certified by the city clerk and attached to the original plans and specifications on file in the clerk's office.

(c) *Distribution of information.* The council may, in its discretion, distribute information concerning any change to the property owners within the district.

(Code 1976, § 6-12.10)

Sec. 90-71. Special assessment roll generally.

(a) *Limitations on preliminary expenses.* No contract or expenditure, except for the cost of preparing necessary plans, specifications and estimates of costs, for any public improvement to be financed in whole or in part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

(b) *Assessment by benefit established.* The city assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefitted by the proposed improvement and shall assess to each lot or parcel of land the amount benefitted thereby. The amount spread in

each case shall be based upon the detailed estimate of the city engineer as approved by the council.

(c) *Filing with city clerk.* When the assessor shall have completed such assessment roll, it shall be certified by the assessor and filed with the city clerk for presentation to the council for review and confirmation by it.

(Code 1976, §§ 6-12.11.01—6-12.11.03)

Sec. 90-72. Acceptance of special assessment roll by council.

(a) Upon receipt of the assessment roll as provided in section 90-71, the council by resolution shall accept the roll and order it filed in the office of the city clerk for public examination,

(b) The council shall fix the time and place at which the council will meet to review such special assessment roll and to give interested persons an opportunity to be heard, which meeting shall not be less than ten days after notice thereof has been given as provided in sections 90-73 and 90-74.

(Code 1976, §§ 6-12.11.04, 6-12.11.05)

Sec. 90-73. Notice by publication.

Under this article, notice shall be published in a newspaper published or circulated in the city not less than ten days before the meeting.

(Code 1976, § 6-12.11.05)

Sec. 90-74. Mailing of notice of hearings.

(a) Notice of hearings and special assessment proceedings under this division shall also 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 that owner or party in interest at the address shown on the tax records, at least ten days before the date of such hearing. For purposes of this section, the term "last local tax assessment records" means the last assessment roll for ad valorem tax purposes which has 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 on that roll.

(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 include a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

(Code 1976, § 6-12.11.05)

State law references—Special assessment notices and hearings, MCL 211.741, MSA 5.3534(1); statement of right to file written appeal, MCL 211.746, MSA 5.3534(6).

Sec. 90-75. Review meeting for special assessment roll.

(a) The meeting required by section 90-72 may be held at any regular or special meeting of the city council. The council shall meet at the time and place designated for the review of such special assessment roll.

(b) At such meeting or a subsequent meeting, the council shall consider all objections thereto submitted in writing or orally at the meeting. 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. 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 was recorded is considered to have protested the special assessment in person.

(c) The council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein.

(d) The council may, by resolution, annul such assessment roll, and the same proceedings shall be followed in making a new roll as in the making of the original roll.

(Code 1976, §§ 6-12.11.05, 6-12.11.06.)

State law reference—Similar provisions, MCL 211.741(3), (4), MSA 5.2524(1), (3), (4).

Sec. 90-76. Confirmation of special assessment roll by council.

If, after hearing all objections and making a record of such changes as the council deems justified, the council determines that it is satisfied with the special assessment roll prepared pursuant to this division and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determination and confirming such roll. The resolution shall also provide for the following:

- (1) Directing the city assessor to spread the various sums and amounts appearing thereon on a special assessment roll.
- (2) Placing the roll on file in the office of the city clerk and directing the city clerk to attach his warrant to a certified copy within ten days.
- (3) Providing, if the council determines construction of part or all of the improvement is not to occur soon after the confirmation of the roll and the council deems it is not necessary to collect the assessment forthwith, that the roll shall not be billed and collected for part or all of the assessment district until the time of construction of the improvement, in which case the council shall at or near the time of construction adopt a further resolution directing the billing and collection of the assessment.
- (4) Commanding the city treasurer to bill and collect the special assessments or installments as provided in this article, to be due on the next April 1 or the April 1 following a further resolution of the council at a later date close to the time of construction of the improvement.
- (5) Directing the city treasurer to give notice by first class mail to each property owner on the special assessment roll that the roll has been filed, stating the amount assessed and when and how it is to be paid. If the payment of the assessment is to commence on the next April 1 following confirmation of the roll, only the notice provided for in section 90-109 shall be

sent. When a continuing assessment for boulevard lighting has been made, the treasurer shall in such notice inform each property owner of the cost formula which shall be used in assessing the portion of the roll for the operation and maintenance of the improvement and when and how it is to be paid.

- (6) When a continuing assessment for boulevard lighting has been made, directing the director of the department of public service, on February 1 of each year, to establish the operation and maintenance cost based on the cost formula established by the city council.
- (7) When a continuing assessment for boulevard lighting has been made, commanding the city treasurer to collect such continuing assessment for each year such boulevard lighting is provided.

(Code 1976, § 6-12.11.07)

Sec. 90-77. Confirmation of special assessment roll final and conclusive.

Whenever any special assessment roll shall be confirmed by the council as provided in this division, it shall be final and conclusive. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided in section 90-80 and division 5 of this article.

(Code 1976, § 6-12.11.08)

Sec. 90-78. Appeals or claims to test validity.

Special assessments and all proceedings upon which such special assessments are based pursuant to this division shall be incontestable, unless an appeal or claim to test the validity thereof is instituted within 30 days after the date of confirmation of such special assessment roll.

(Code 1976, § 6-12.11.09)

Sec. 90-79. Failure to give or receive notice.

Failure on the part of the city or any official or employee thereof to give or to mail any notice required to be given or mailed by this article or failure by any property owner to receive any such notice shall not invalidate any special assessment or special assessment roll.
(Code 1976, § 6-12.11.10)

Sec. 90-80. Change in assessment.

After confirmation of the special assessment roll pursuant to this division, the council, without a hearing, may reduce the amount to be assessed.
(Code 1976, § 6-12.11.11)

Secs. 90-81—90-105. Reserved.

DIVISION 3. PAYMENT OF ASSESSMENTS

Sec. 90-106. Single payment assessments.

(a) *Due and payable date.* All special assessments made pursuant to this article shall be due and payable on April 1 following a resolution of the city council directing the billing and collection of the assessment, except for installment payment assessments, continuing assessments, and assessments authorized for billing and collection in the month of March, which shall be due the April 1 of the next year.

(b) *Interest rate.* All special assessments not paid when due shall bear interest at a rate as specified by council, not in excess of that permitted by law.
(Code 1976, § 6-12.12.01)

Sec. 90-107. Annual installment payment assessments.

(a) *Number and due date.* The council may provide for the payment of special assessments made pursuant to this article in annual installments in a number as determined by the council, the first of which shall become due on the next April 1 following confirmation of the roll, if the assessment is to be due forthwith, or on the next April 1 following the date of resolution of the council directing the billing and collecting of the assessment, if it is not to be collected until a later

date close to the time of construction. Subsequent yearly installments shall be billed and shall become due on April 1 of each subsequent year.

(b) *Interest rate on unpaid installments.* All unpaid installments shall bear interest at a rate as specified by council, commencing on the first day of the next month following the expiration of 30 days after the date of confirmation of the roll, if the assessment is to be due forthwith, or on the first day of the next month following a resolution of the council directing the billing and collecting of the assessment, if it is not to be collected until a later date close to the time of construction.
(Code 1976, § 6-12.12.02)

Sec. 90-108. Continuing assessments for boulevard lighting.

For special assessments for boulevard lighting, the city council may provide for the payment of continuing assessments for the operation and maintenance of such lighting. Such assessments shall be billed and shall become due yearly on April 1. Late fees may be imposed by the council for failure to pay such assessments when due.
(Code 1976, § 6-12.12.03)

Sec. 90-109. Notification of property owners.

(a) *Generally.* After the council has directed the billing and collection of the special assessment made pursuant to this article, the city treasurer shall notify by first class mail each property owner on the roll of the obligation of paying the amount assessed.

(b) *Penalty-free single payment period.* When the assessment is not payable in installments, the notice shall state the time within which the assessment may be paid without interest or fees.

(c) *Installment due dates.* When such special assessment is payable in installments, the notice shall state the due date of the first installment and the date from which interest is to be charged on future installments.

(d) *Continuing assessment due date and penalties.* When the special assessment is a continuing assessment for the operation and maintenance