

**CHAPTER 208**  
**SPECIAL ASSESSMENTS FOR IMPROVEMENTS**

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**CROSS REFERENCES**

Taxation -see CHTR. Ch. 8

Special assessments -see CHTR. Ch. 10

Public money -see M.C.L.A. §§750.489 et seq.

## **208.01 DEFINITIONS.**

As used in this chapter:

(a) The term "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 there from;

(b) The term "cost," when referring to the cost of any improvement, shall include 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 such improvement, the special assessments therefore and the financing thereof;

(c) The term "Engineer" shall mean the Engineer in which the City of Ewart has a Contract.

## **208.02 POWER OF COUNCIL TO ASSESS.**

The Council shall have power to determine by resolution that the whole or any part of the cost or expense of any improvement shall be defrayed by special assessments upon the property especially benefited, in proportion to the benefits derived or to be derived.

## **208.03 ADVISORY PETITION.**

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 therefore, or may receive such a petition voluntarily presented; but in either event, such petition shall be advisory only and shall not be jurisdictional.

**208.04 INVESTIGATION AND PLANS.**

Before determining to make any improvement, any part of the cost of which is to be defrayed by special assessment, the Council shall require the Engineer to ascertain the assessed valuation of all property affected by the proposed improvement, the number of parcels which show tax delinquencies, the number of parcels owned by public authorities and the number of parcels which are vacant and to prepare, or cause to be prepared, plans and specifications therefore and an estimate of the cost thereof, and to file the same with the Clerk, together with his or her 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.

**208.05 NOTICE OF HEARING.**

After the filing provided for in Section 208.04, 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 thereof 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.

**208.06 HEARING ON IMPROVEMENT.**

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 by the Council.

**208.07 RESOLUTION OF NECESSITY.**

After said public hearing, the 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 derived or to be derived. By such resolution the Council shall approve 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; determine the

number of installments in which assessments may be paid; determine the rate of interest to be charged on installments, not to exceed six percent per annum; designate the district or land and premises upon which special assessments shall be levied; and direct the Assessor or assessing officers to prepare a special assessment roll in accordance with the Council's determination.

**208.08 PREPARATION OF ROLL.**

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

**208.09 ASSESSOR'S CERTIFICATE.**

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

**208.10 NOTICE OF HEARING ON ROLL.**

Upon receipt of the 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 thereof 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 said meeting not less than ten days prior to the date of said meeting.

**208.11 OBJECTIONS TO ROLL.**

Any person deeming himself or herself aggrieved by the special assessment roll may file his or her objections thereto in writing with the Clerk prior to the close of said hearing, which written objections shall specify in what respect he or she deems himself or herself aggrieved.

**208.12 HEARING ON ROLL.**

The Council shall meet and review the said 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 said 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, may refer it back to the Assessor or assessing officers for revision or may annul it and any proceedings in connection therewith. No original special assessment roll shall be finally confirmed, except by the affirmative vote of four (4) of the members of the 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 more than fifty percent of the amount of such special assessment. The Clerk shall endorse the date of confirmation upon each special assessment roll.

**208.13 CONFIRMATION FINAL.**

The special assessment roll shall, upon confirmation, be final and conclusive.

**208.14 ESTABLISHMENT 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 and a debt to the City from the persons to whom they are assessed. Such lien shall be of the same character and effect as the lien created by the City Charter 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. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments not to exceed fifteen in number as the Council may determine at the time of confirmation. If in annual installments, the Council shall determine the first installment to be due upon confirmation or on the following July 1 and subsequent installments on July 1 of succeeding years.

**208.15 COLLECTION STATEMENTS.**

The assessment roll shall be transmitted by the Clerk to the Treasurer for collection immediately after its confirmation. The Treasurer shall give notice by one publication in a newspaper which shall meet the requirements of the Charter that said special assessment roll (identifying it) has been filed in his or her office and specifying when and where payments may be made thereon. He or she may mail statements of the several assessments to the respective owners, as indicated by the records of the Assessor or assessing officers 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.

**208.16 DIVISION INTO INSTALLMENTS.**

The whole or any part of any such assessment may be paid during the period of sixty days from the date of confirmation of the special assessment roll without interest or

penalty. Not later than fifteen days after the end of said sixty-day period the Treasurer shall transmit such roll to the Assessor or assessing officers with all payments upon assessments noted thereon. The Assessor shall then divide any remaining balance of each assessment into such number of equal installments as shall have been fixed by the Council.

**208.17 SPREADING INSTALLMENTS ON TAX ROLLS.**

The first installment shall be spread upon the next City tax roll in a column headed "Special Assessments", together with interest upon all unpaid installments from the date of the confirmation of the roll to July 1 of the year in which such tax roll is made; provided, that any fraction of a month shall be considered as a full month. Thereafter one installment shall be spread upon each annual tax roll, together with one year's interest upon all unpaid installments; provided, that when any annual installments shall have been prepaid as hereinafter provided, then there shall be spread upon the tax roll for such year only the interest upon all unpaid installments.

**208.18 COLLECTION OF INSTALLMENTS.**

After each installment has been placed on the tax rolls, the same shall be collected by the Treasurer with the same rights and remedies and the same penalties and interest as provided in the Charter for the collection of taxes.

**208.19 PAYING INSTALLMENTS IN ADVANCE.**

After the expiration of the sixty-day period provided for in Section 208.16, any installment which has not been spread upon the tax rolls may be discharged by paying the face amount thereof plus interest thereon to the date of payment.

**208.20 DETERMINING ACTUAL COST.**

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

**208.21 DEFICIENCY ASSESSMENTS.**

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 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, provided that the additional pro-rata assessment shall not exceed twenty-five percent 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.

**208.22 EXCESSIVE ASSESSMENT; REBATE.**

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 percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent, the entire excess shall be refunded on a pro-rata basis to the owners of the property assessed. Such refund shall be made by credit against future unpaid installments in the inverse order in which they are payable 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 part by such special assessment.

**208.23 REASSESSMENT.**

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 the collection thereof shall be conducted in the same manner as provided for 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.

**208.24 COLLECTION; OTHER REMEDIES.**

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.

**208.25 MAXIMUM SIZE OF DISTRICT.**

No special assessment district shall be created by the Council for anyone public improvement which includes property having an area in excess of twenty-five percent of the total area of the City. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

**208.26 ASSESSMENT TO PRECEDE IMPROVEMENT.**

No 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 each improvement.