

ORDINANCE NO. 11-1600

AN ORDINANCE ESTABLISHING SPECIAL ASSESSMENT PROCEDURES

THE CITY OF ISHPEMING ORDAINS:

Section 1. Definitions: The following terms as used in this ordinance shall have the meanings herein defined.

a) The term "improvement or repair" 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. The term "improvement or repair" shall include, but not be limited to, work for grading, paving, curbing, graveling, or otherwise improving streets or alleys, sidewalk repair, construction, or replacement, constructing, repairing, replacing or maintaining any part of the City water distribution system or plant, or any part of the City storm or sewage collection system or plant, and such other local improvements chargeable upon land or property in the City, according to frontage or benefits, as the City Council may determine.

b) The terms "cost" or "estimated costs" shall include the cost of engineering reports or services, surveys, plans, specifications, lands, rights-of-way, spreading of special assessment rolls, notices, advertising, capitalized interest, legal fees, financing and construction, operation, maintenance and replacement, and all other costs incident to the making of an improvement or repair, the spreading special assessments therefor and the financing thereof.

c) The term "City Council" shall mean the Ishpeming City Council.

d) With the use of any term herein the singular shall include the plural, and the masculine shall include feminine and neuter.

Section 2. The City Council shall have power to determine that the whole or any part of the expense of any public improvement or repair shall be defrayed by special assessment upon the property especially benefited.

Section 3. City Manager's Report. Before the adoption of any resolution to defray the cost of any improvement or repair by special assessment, the City Manager shall prepare or cause to be prepared a report concerning the matter, which report shall include any information the City Council may request concerning the improvement or repair. The City Manager shall request the City Engineer or such other persons as he deems necessary to prepare or cause to be prepared plans for the improvement or repair, an estimate of the cost of the improvement or repair, a description of the special assessment district, which shall include the legal description of each lot or parcel of land to be included within the special assessment district, and such other information as the City Council may have requested. The City Manager shall prepare his report, which shall contain plans for the improvement or repair, the estimate of the cost of the improvement or repair, a description of the special assessment district, which shall include the legal description of each lot or parcel of land to be included within the special assessment district, a recommendation as to what part of the cost should be paid by special assessment and what part, if any, should be a general obligation of the City, a recommended interest rate for installment payments, such other information as the City Manager determines is appropriate, and such other information as the City Council may have requested, and shall present the report to the City Council.

Section 4. After receipt of the report from the City Manager, and if the City Council determines that the improvement or repair shall be defrayed by special assessment, it shall adopt a resolution tentatively creating a special assessment district to defray the cost of the work. The resolution shall state the following:

- a) What improvement, repair, or work will be done;
- b) The estimated cost of the work;
- c) What proportion of the cost of the work shall be paid by special assessments, and what part, if any, shall be paid from the general funds of the City;
- d) The number of installments in which the assessments may be paid;
- e) The rate of interest to be paid on all installments; and
- f) The land, district, or premises upon which the special assessments shall be levied. The designation of the land or premises in the resolution shall include the legal description of each parcel or lot in the special assessment district.

Section 5.

- a) At any time after the adoption of the resolution referred to in Section 4, the City Council may adopt a final resolution creating a special assessment district with respect to the improvement or repair identified in the prior resolution.
- b) Within twenty-one (21) days after the adoption of a final resolution creating a special assessment district, the City Assessor shall prepare a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement, and the estimated cost to be levied against each such lot and parcel exclusive of interest, expressed either as a percentage of the total cost to be specially assessed or as a dollar amount, or both.
- c) Within twenty-one (21) days after the adoption of the final resolution creating the special assessment district, the City Assessor shall notify each property owner on the special assessment roll, by letter, that a special assessment district has been created and that his property is included on the roll. The letter shall be mailed by first class mail to the address of the property owner as shown on the most recent general real property tax assessment roll, and shall give notice of the period when the special assessment roll will be open to public inspection.
- d) Notice of the opening of the special assessment roll for public inspection, and the period during which the roll may be inspected, and of the time and place of the meeting of the City Council to hear objections or complaints, shall be published by the City Clerk one (1) time, in the newspaper identified pursuant to Section 4.7 of the City Charter, which publication shall be at least one (1) week before the opening of the roll for public inspection.

Section 6. The special assessment roll shall be open to public inspection for a period of at least fourteen (14) days before the City Council meets to review the roll and to hear comments, complaints, or objections to creation of the special assessment district or to the special assessment roll.

Section 7.

- a) At the time and place specified in the published notice, the City Council shall meet and hear complaints, objections and comments regarding the creation of the special assessment district and the assessment roll. The hearing may be adjourned from time to time thereafter by the City Council, and in such event it shall not be necessary to mail notice or to publish notice of the adjourned hearing date or dates.
- b) At the time and place specified in the notice of the public hearing, and any adjourned hearing date, the City Council shall meet and review the special assessment roll and shall consider any objections thereto. The City 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 the roll shall be noted in the City Council minutes. After such hearing and review the City Council may confirm the 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 the special assessment roll, the City Council shall determine the number of installments in which the assessments may be paid and determine the rate of interest to be charged on unpaid installments. The City Clerk shall endorse the date of confirmation on each special assessment roll. Such roll, when confirmed by the City Council, shall be final and conclusive.
- c) If, prior to the conclusion of the hearing referred to in Section 7(a) above, the owners of the property to be assessed more than one-half (1/2) the cost of that portion to be specially assessed object in writing to the improvement or repair, the City Council shall not approve the special assessment roll without an affirmative vote of four (4) members of the City Council present and voting.
- d) The resolution approving the special assessment roll shall approve the plans for the improvement or repair, determine the estimated cost thereof, determine what proportion of the cost shall be paid by special assessment upon the property especially benefited and what proportion, if any, shall be a general obligation of the City, shall designate the special assessment district or land and premises upon which the special assessments shall be levied, and shall direct the City Manager to proceed to award contracts for the work in accordance with City purchasing or bidding requirements. The special assessment roll shall include all firm costs known to the City as of the date of confirmation of the special assessment roll.

Section 8. The first installment shall be due on or before the date fixed by the City Council and the several subsequent installments shall be due at intervals of twelve (12) months after the due date of the first installment. All unpaid installments shall bear interest from the date of confirmation of the special assessment roll and interest shall be paid annually on each installment due date. Assessment installments including interest, collection fees and penalties, which are delinquent for a period of six (6) months, and which remain unpaid on March 1 next following the six months delinquency shall be returned as delinquent by the City Treasurer to the County Treasurer and shall be collected in the same manner, and with the same rights and remedies, as provided in the City Charter for the collection of delinquent real property taxes. Penalties and collection fees on delinquent installments shall be assessed at the same rate permitted by State law for delinquent real property taxes.

Section 9. All monies 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 improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

Section 10. Notwithstanding the confirmation of a special assessment roll calling for installment payments, any property owner assessed may prepay the entire amount owed, in which event no interest shall be assessed against such owner and no further invoice or bill shall be sent to the owner. This section shall not be construed to permit the prepayment of any number of installments (other than the current installment) less than the entire amount specially assessed against the property.

Section 11. The special assessment roll shall be transmitted by the Assessor to the Treasurer for collection immediately after its confirmation. The Treasurer shall mail statements of the several assessments to the 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.

Section 12. All special assessments contained in any special 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 by State law for City real property taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the City 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.

Section 13. The City Engineer shall, within sixty (60) days after the completion of each improvement project, compile the actual cost thereof and forward the same to the City Assessor who shall adjust the special assessment roll to correspond therewith. The City Council shall be promptly advised of the adjustment. When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the City Council may make additional pro rata assessments to fund the deficiency; provided, however, that the additional assessment shall not, in any case, exceed thirty (30%) per cent of the original assessment. Should the total amount collected on assessments prove larger than necessary by more than 5%, then the excess shall be refunded pro rata according to assessments. Any surplus of 5% or less may be placed in the City General Fund or in the City Treasury.

Section 14. 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 or invalid, the City 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.

Section 15. In addition to any other remedies and without impairing the lien therefor, any delinquent special assessment, together with interest and penalties, may be collected in a lawsuit brought 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.

Section 16. An action of any kind shall not be instituted for the purpose of contesting or enjoining the collection of any special assessment unless, within 45 days after the confirmation of the special assessment roll, written notice is given to the City Council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal and unless that action is commenced within 90 days after the confirmation of the roll. If a portion of an assessment roll is determined to be illegal, in whole or in part, the Council may revoke its confirmation, correct the illegality, if possible, and reconfirm it. Property which is not involved in the illegality shall not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

Section 17. This ordinance shall be effective immediately upon publication.

Adopted: March 4, 1987

Amended: April 11, 2012