

**10.1000**

**CHAPTER 10  
SPECIAL ASSESSMENTS**

**10.1001     Sec. 10.1. GENERAL POWER RELATIVE TO SPECIAL ASSESSMENTS.**

The Council shall have the power to make public improvements within the city. As to public improvements which are of such a nature as to benefit especially any property or properties, the Council shall have the power to determine, by resolution, that the whole or any part of the expense of any such public improvement shall be defrayed by special assessment upon such property, in proportion to the benefits derived or to be derived.

(char. eff. Nov. 25, 1974)

**10.1002     Sec. 10.2. DETAILED PROCEDURE TO BE FIXED BY ORDINANCE.**

a.     The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of public improvement projects, the preparation of plans and cost estimates, the creation of special assessment districts, notices and hearings, making of special assessment rolls, the correction of errors in such rolls, the confirming of special assessment rolls, the number of installments in which special assessments may be paid, the collection of special assessments, the making of additional assessments where the original special assessment roll proves insufficient to pay the cost of the improvement or the cost of the repayment of the principal of and interest on money borrowed to pay for such improvement, refunds of assessments which prove to be larger than the cost of the improvement. Provided that, when such surplus is less than five per cent (5%) of the total amount of the assessment roll, the surplus may be placed in the general fund; and any other matters concerning the making and financing of improvements by the special assessment method. Such ordinance shall include provisions for the following:

1.     The procedure for filing petitions for public improvements.
2.     A survey and report concerning the need for, desirable extent of, and probable cost of such proposed public improvement.
3.     A public hearing by the Council on the necessity of the making of such public improvement and on the proposed special assessment district with a publication of notice of such hearing; Provided, that no such public hearing shall be required when a petition for a public improvement is signed by all owners of property to be assessed therefor.
4.     A resolution of the Council, determining to proceed or not to proceed with the proposed public improvement and if the determination is to proceed, determining the probable life of the improvement, finally fixing the special assessment district therefor, and ordering the assessor to prepare a special assessment roll therefor; provided that,

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if prior to the adoption of the resolution to proceed with the making of the public improvement, written objections thereto have been filed by the owners of property in the district which will be required to bear more than fifty per cent (50%) of the cost thereof, or by a majority of the owners of property to be assessed, no resolution determining to proceed with the improvement shall be adopted while such objections remain, except by the affirmative vote of five members of the Council.

5. A public hearing by the Council on the special assessment roll for the project with a publication notice of such hearing.
  6. A resolution of the Council confirming the special assessment roll for public improvements and stating the date upon which the special assessment therefor, or the installments thereof, if installment payments be allowed, shall be due and payable, the number of annual installments, if allowed, in which the special assessment may be paid, and the rate of interest to be charged upon such deferred installments.
- b. That no additional assessment for any public improvement which exceeds 10 per cent (10%) of the original assessment shall be made, unless such additional assessment be reviewed at a meeting of the Council, for which meeting notices shall be published as provided in the case of review of the original special assessment roll.
  - c. Publication of notices required by this section shall be given in a newspaper of general circulation in the city and by first class mail to the owners of the property to be affected and other parties having an interest therein, as shown by the current assessment roll of the city, which publication and mailing shall not be less than ten days prior to the hearing to which it applies.
  - d. In the event that funds are on hand or a revolving fund exists to defray the expense of any public improvement prior to the completion thereof, the special assessment roll therefor may be made within sixty (60) days after the improvement is completed and shall be based upon the actual cost thereof.
  - e. When the city, may by law, participate in intergovernmental improvements, the cost of which may be defrayed in whole or part by special assessments, the procedure therefor shall be as provided by the law permitting the same. If such procedure is not so provided, the procedure established by and under authority of this chapter shall govern.  
(char. eff. Nov. 25, 1974)

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#### Sec. 10.3. RECONSIDERATION OF PETITIONS.

In the event that the Council shall fail to make any public improvement petitioned for under the provisions of the special assessment ordinance during the calendar year during which any petition is filed, such petition shall be reconsidered by the Council prior to the first day of March of the succeeding calendar year for the purpose of

determining whether such improvements should be made during such calendar year.  
(char. eff. Nov. 25, 1974)

**10.1004 Sec. 10.4. CONDEMNATION COSTS.**

The cost of condemning or otherwise acquiring property needed for any public improvement shall constitute a part of the cost of the improvement, but in no case shall the amount of such cost which is included in any special assessment for any public improvement cause the assessment to exceed the amount of benefit received by any property assessed therefor through the making of the improvement.  
(char. eff. Nov. 25, 1974)

**10.1005 Sec. 10.5. LIMITATIONS ON SUITS AND ACTIONS.**

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment or additional special assessment unless (1) within thirty days after the confirmation of the special assessments roll, written notice be filed with the Clerk of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal, and (2) such suit or action shall be commenced with sixty (60) days after the confirmation of the roll.  
(char. eff. Nov. 25, 1974)

**10.1006 Sec. 10.6. LIEN FOR AND COLLECTION OF SPECIAL ASSESSMENTS.**

Upon the confirmation of each special assessment roll, the special assessments thereon shall, until paid, be and continue to be lien upon the property assessed for the amount of such assessments and all interest and collection charges which may accrue thereon. Such lien shall be of the same character and effect as that which is created by this charter for the city taxes and shall be treated as such in all procedures for the collection of special assessments as in this charter provided. Such special assessments or the property assessed, according to the records of the assessor's office at the time the special assessment or installment thereof, as the case may be, is due for payment. All special assessments, or installments thereof, made in any calendar year which remain unpaid on the first Monday of March of the succeeding calendar year, together with the collection charges and interest which have accrued thereto, shall be placed upon the delinquent tax roll of the city as required in Chapter 8 of this Charter and shall be collected, or the collection thereof enforced, in the same manner as are delinquent taxes of the city. For this purpose, the word "assessment" used in Chapter 8 shall include special assessments authorized by this chapter.  
(char. eff. Nov. 25, 1974)

**10.1007 Sec. 10.7. HAZARDS AND NUISANCES.**

When any lot, or premises, building, or structure within the city, because of age or dilapidation, the accumulation of refuse or debris, the uncontrolled growing of noxious weeds, or because of any other condition or happening becomes, in the opinion of the Council, a public nuisance, or hazard which is dangerous to the health,

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safety or welfare of the inhabitants of the city or of those residing or habitually going near such lot or premises, or such building, or structure, the Council may after investigation, give notice to the owners or owner of the land upon which such nuisance or hazard exists or to the owner or occupant of the land or the building or structure itself, specifying the nature of the nuisance or hazard and ordering such owner or occupant to alter, repair, tear down, abate, or remove the nuisance or hazard within the time specified by the Council which shall be commensurate with the nature of the hazard or nuisance, or show cause at a hearing before the Council why such order was not obeyed. The notice herein required shall be in writing and delivered in person or by first class mail with postage prepaid thereon, addressed to the address set forth in the current assessment roll of the city or the records of the assessor and shall also specify the time and place of hearing, which hearing shall be at least ten (10) days later than set for the alternation, repair, tear down, abatement or removal of the nuisance or hazard. Such notice shall be given by the Clerk. If, after diligent and reasonable effort to locate the owner of the premises, or his agent, he cannot be found, such notice shall be given to the occupant of the premises, if any, and by posting upon the premises in plain view of all persons going upon or passing near such premises. If, at said hearing before the Council, it is determined that such nuisance or hazard does exist, or in any case where the owner of the land or building or structure itself is not known or cannot be found, the Council shall set a reasonable time for abatement of such nuisance or hazard. Such order as issued by the Council shall be given in writing to the owner or his representative, and in those cases where the owner is not known or cannot be found, a copy of said order shall be given to the occupant of the premises, if any, and by posting a copy of same in like manner as required for the initial notice. If, at the expiration of the time limit set in the order of abatement, the owner has not complied with the requirement thereof, or in any case where the owner of the land or of the building or structure itself is not known or cannot be found, the Council may order such nuisance or hazard to be abated by the proper department or agency of the city qualified to do the work required, or may do the work by contract or by hire, and the cost of such abatement may be assessed against the lot, premises or description of property upon which such nuisance or hazard is located by special assessment.  
(char. eff. Nov. 25, 1974)

**10.1008**      **Sec. 10.8. BOULEVARD LIGHTING.**

The council may provide a system of boulevard lighting for the city or any parts thereof, and may assess the cost thereof on any street for which such lighting is provided against the lands abutting thereon if the property owners of a majority of the frontage on such streets, or part thereof so to be improved, shall petition therefor.  
(char. eff. Nov. 25, 1974)

**10.1009**      **Sec. 10.9. ALL REAL PROPERTY LIABLE FOR SPECIAL ASSESSMENTS.**

All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefitting such property, unless specifically exempted from special assessments by law.  
(char. eff. Nov. 25, 1974)

**10.1010**      **Sec. 10.10. SPECIAL ASSESSMENTS ACCOUNTS.**

Monies raised by special assessment for any public improvement shall be credited to a special assessment account, and shall be used to pay the special assessment portion of the cost of the improvement for which the assessment was levied and of expenses incidental thereto, including the repayment of the principal of and interest on money borrowed therefor, and to refund surplus assessments, if refunds be authorized.

(char. eff. Nov. 25, 1974)

**10.1011**      **Sec. 10.11. CERTAIN POSTPONEMENTS OF PAYMENTS.**

The Council may provide that any person who, in the opinion of the Assessor and Council, by reason of poverty is unable to contribute toward the cost of the making of a public improvement by special assessment, may execute to the city an instrument creating a lien for the benefit of the city on all or any part of the real property owned by him and benefitted by any public improvement, which lien will mature and be effective from and after the date of the execution of such instrument which then shall be recorded with the Register of Deeds of Otsego County, and shall not be discharged or released until the terms thereof are met in full. In such event, the amount of the assessment for which such lien is created shall be advanced by the city. The Council shall establish the procedure of making this section effective.

(char. eff. Nov. 25, 1974)