



*The Village of Friendliness ~ Since 1870*

TO: Mayor Anderson and Members of the Douglas City Council

FROM: William LeFevere, City Manager

RE: Special Assessment Districts

DATE: August 13, 2018

Attached please find supplemental information in response to recent correspondence regarding the establishment of special assessment districts.

Sec. 4-b. Each city may in its charter provide:

(1) For refunding money advanced or paid on special assessments imposed, for water main extensions; for borrowing money through its legislative body on the faith and credit of the city, to provide for such refunding from time to time as buildings shall be connected with such water main extensions; and for the issuance of bonds therefor due in not more than 30 years in an amount and at the rate of interest limited by the charter of such city;

(2) For the installation and connection of sewers and waterworks on and to property within the city; for assessing the cost thereof to the several properties and making the same a lien thereon; and for the borrowing of money and issuing bonds in anticipation of the collection of such special assessments;

(3) For the installation and connection of conduits for the service of municipally owned and operated electric lighting plants; and for the borrowing of money and issuing the bonds of the city therefor, for the purpose of providing the first cost of such installation and connection.

**History:** Add. 1927, Act 209, Imd. Eff. May 20, 1927;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2232;—CL 1948, 117.4b.

#### **117.4c Permissible charter provisions.**

Sec. 4-c. Each city which is authorized to acquire, own, purchase, construct or operate any public utility, may provide in its charter for the issuance of mortgage bonds therefor beyond the general limit of the bonded indebtedness prescribed by law, provided that such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure. Such mortgage bonds shall be sold to yield not to exceed 6 per centum per annum. The charter shall also provide for the creation of a sinking fund in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.

**History:** Add. 1927, Act 287, Imd. Eff. May 31, 1927;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2233;—CL 1948, 117.4c.

#### **117.4d Permissible charter provisions; assessing costs of public improvement and boulevard lighting system; definitions.**

Sec. 4d. (1) Each city may in its charter provide:

(a) For assessing and reassessing the costs, or a portion of the costs, of a public improvement to a special district.

(b) For assessing the cost, or a portion of the costs, of installing a boulevard lighting system on a street upon the lands abutting the street. A city shall not establish a special assessment district for a boulevard lighting system if the district includes the entire city, unless the special assessments against the real property within the district are levied on other than an ad valorem basis.

(2) As used in this section:

(a) "Boulevard lighting system" means any design or method of providing light to a street.

(b) "Cost" includes necessary condemnation cost and necessary expenses incurred for engineering, financial, legal, or administrative services; operation and maintenance of a boulevard lighting system, whether that service is provided directly by the city or is provided by an investor-owned utility; and other services of a similar kind involved in the making and financing of the improvement and in the levying and collecting of the special assessments for the improvement. If the service is rendered by city employees, the city may include the fair and reasonable cost of rendering the service. The inclusion of a cost specified in this subdivision as part of the cost of an improvement for which special assessments have been levied before the effective date of the 1987 amendatory act amending this section is validated.

(c) "Street" means a public avenue, street, highway, road, path, boulevard, or alley or other access used for travel by the public.

**History:** Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2234;—CL 1948, 117.4d;—Am. 1961, Act 124, Eff. Sept. 8, 1961;—Am. 1964, Act 27, Imd. Eff. Apr. 29, 1964;—Am. 1988, Act 201, Imd. Eff. June 29, 1988.

#### **117.4e Public property; condemnation of private property; permissible charter provisions.**

Sec. 4e. Each city may in its charter provide:

(1) For the acquisition by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary lands therefor, viz.: City hall, police stations,

CHAPTER XI

SPECIAL ASSESSMENT

Section 11.1. Special Assessment: General Powers.

The council shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in a special district and shall so declare by resolution which shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the city, the number of installments in which assessments shall be levied and whether the assessments shall be based upon special benefits, frontage, area, valuation or other factors permitted by law, or a combination thereof. The council shall also have the power of reassessment with respect to any such public improvement.

Section 11.2. Procedure Fixed By Ordinance.

The council shall prescribe by ordinance the complete special assessment or reassessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings on necessity and on confirmation of the assessment rolls, and making and confirming of the assessment rolls, correction of errors, the collection of special assessments, and any other matters concerning the making and financing of improvements by special assessment.

Section 11.3. Implementation.

The council shall have and is given the power to pass ordinances implementing the provisions of this chapter and detailing the procedure relative and hereto. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the treasurer or other designated officer.

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## CHAPTER 94: SPECIAL ASSESSMENTS

### Section

- 94.01 Definitions
- 94.02 Authority to assess
- 94.03 Initiation of special assessment projects
- 94.04 Initiation by petition
- 94.05 Survey and report
- 94.06 Tentative determination; assessment roll
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- 94.08 Limitations on preliminary expenses
- 94.09 Roll
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- 94.11 Hearing to determine necessity and review roll; objections in writing
- 94.12 Changes and corrections in assessment roll
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- 94.16 Delinquency
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- 94.18 Additional assessments; refunds
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- 94.22 Contested assessments
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- 94.26 Deferred payments
- 94.27 Reconsideration of petitions
- 94.28 Hazards and nuisances

### *Statutory reference:*

*Deferment for older persons, see M.C.L.A. §§ 211.761 et seq.*

*Notices and hearings, see M.C.L.A. §§ 211.741 et seq.*

*Special assessments for public improvements, see M.C.L.A. § 117.4d and City Charter §§ 11.1 to 11.3*

#### § 94.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*COST.* The cost of services, plans, condemnation, spreading of rules, notices, advertising, financing, construction, legal fees, interest on special assessment bonds for not to exceed one year, and all other costs incident to the making of the improvement, the special assessments therefor and the financing thereof.

*LOCAL PUBLIC IMPROVEMENT.* Any public improvement which is of such a nature as to benefit especially any real property or properties within a district in the vicinity of the improvement. (1995 Code, § 46-1) (Ord. 65, passed 11-5-1979)

#### § 94.02 AUTHORITY TO ASSESS.

The whole cost or any part thereof of any local public improvement may be defrayed by special assessment upon the lands specially benefitted by the improvement in the manner provided in this chapter.

(1995 Code, § 46-2) (Ord. 65, passed 11-5-1979)

#### § 94.03 INITIATION OF SPECIAL ASSESSMENT PROJECTS.

Proceedings for the making of local public improvements within the city, the tentative necessity thereof, and the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefitted, provided that all special assessments levied shall be in proportion to the benefits derived from the improvements, may be commenced by resolution of the City Council, with or without petition.

(1995 Code, § 46-3) (Ord. 65, passed 11-5-1979)

#### § 94.04 INITIATION BY PETITION.

Local public improvements may be initiated by petition signed by property owners whose aggregate property in the proposed district was assessed for not less than 51% of the total assessed value of the privately owned real property located therein, all shown by the last preceding general tax records of the city. The petition shall contain a brief description of the property owned by the respective signatories thereof, and if it shall appear that the petition is signed by at least 51%, the Clerk shall certify same to the City Council. The petition shall be addressed to the Council and filed with the Clerk and shall in no event be considered directory but is advisory only.

(1995 Code, § 46-4) (Ord. 65, passed 11-5-1979)

**§ 94.05 SURVEY AND REPORT.**

Before the City Council shall consider the making of any local improvement, the Council shall cause to be prepared a report which shall include necessary plans, profiles, specifications, and detailed estimates of cost, an estimate of the life of the improvement, a description of the assessment district, and any other pertinent information as will permit the Council to decide the cost, extent, and necessity of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property especially benefitted, and what part, if any, should be paid by the city-at-large. The Council shall not finally determine to proceed with the makings of any local improvement until the report has been filed nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of the improvement.

(1995 Code, § 46-5) (Ord. 65, passed 11-5-1979)

**§ 94.06 TENTATIVE DETERMINATION; ASSESSMENT ROLL.**

Upon receipt of the report required in § 94.05, if the City Council shall decide to proceed with the improvement, it shall, by resolution, order the report filed with the Clerk. In addition, by that resolution, the Council shall tentatively determine the necessity thereof, set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, the part or portion of the cost of the public improvement to be paid by the lands specially benefitted thereby and the part or portion, if any to be paid by the city-at-large for benefit to the city-at-large, and shall direct the assessor to make a special assessment roll of the part or the proportion of the cost to be borne by the lands specially benefitted according to the benefits received and to report the same to the Council.

(1995 Code, § 46-6) (Ord. 65, passed 11-5-1979)

**§ 94.07 DEVIATION FROM PLANS AND SPECIFICATIONS.**

No deviation from original plans or specifications, as adopted, shall be permitted by any officer or employee of the city without authority of the City Council by resolution. A copy of the resolution authorizing the changes or deviation shall be certified by the Clerk and attached to the original plans and specifications on file in his or her office.

(1995 Code, § 46-7) (Ord. 65, passed 11-5-1979)

**§ 94.08 LIMITATIONS ON PRELIMINARY EXPENSES.**

The City Council shall specify the provisions and procedures for financing a local public improvement. No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications, and estimates of cost, shall be made for the improvement, nor shall any improvement be commenced until the special assessment roll to defray the costs of the same shall have been made and confirmed.

(1995 Code, § 46-8) (Ord. 65, passed 11-5-1979)

**§ 94.09 ROLL.**

The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefitted by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefitted thereby. The amount spread in each case shall be based upon the detailed estimate of cost as approved by the City Council.

(1995 Code, § 46-9) (Ord. 65, passed 11-5-1979)

**§ 94.10 ASSESSOR TO FILE ASSESSMENT ROLL.**

When the Assessor shall have completed the assessment roll, he or she shall file the same with the City Clerk for presentation to the City Council for review and certification by it.

(1995 Code, § 46-10) (Ord. 65, passed 11-5-1979)

**§ 94.11 HEARING TO DETERMINE NECESSITY AND REVIEW ROLL; OBJECTIONS IN WRITING.**

Upon receipt of the special assessment roll, the City Council, by resolution, shall accept the assessment roll and order it to be filed in the office of the Clerk for public examination, shall fix the time and place the Council will meet to hear objections to the improvement and review the special assessment roll and direct the Clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. The notice shall be given by publication once at least ten full days prior to the date of the hearing in a newspaper published or circulated within the city and by first-class mail addressed to each owner of or person in interest in property to be assessed, as shown by the last general tax assessment roll of the city, mailed at least ten days prior to the date of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council. At the hearing, all interested persons or parties shall present, in writing, their objections, if any, to the improvement and the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed. The notice 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 that an owner or

party in interest, or his or her agent, may appear in person at the hearing to protest the special assessment or may file his or her appearance or protest by letter and his or her personal appearance shall not be required. The notice shall further include a statement that the owner or any party 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.  
(1995 Code, § 46-11) (Ord. 65, passed 11-5-1979)

#### **§ 94.12 CHANGES AND CORRECTIONS IN ASSESSMENT ROLL.**

The City Council shall meet at the time and place designated for the hearing on the improvements and review of the special assessment roll, and at the meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. The City Council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul the assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. If after the hearing all objections and making a record of the changes as the Council deems justified, the Council may, by resolution, determine to proceed with the public improvement, determine the necessity thereof and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, finally determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefitted thereby and the part or portion, if any, to be paid by the city-at-large for benefit to the city-at-large. If the Council determines that it is satisfied with the special assessment roll and that assessments are in proportion to the benefits received, it shall thereupon pass a resolution reciting the determinations, confirming the roll, placing it on file in the office of the Clerk and directing the Clerk to attach his or her warrant to a certified copy thereof within ten days, therein commanding the Assessor to spread and the Treasurer to collect the various sums and amounts appearing thereon as directed by the Council. The 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 unless contested, and subject to adjustment to conform to the actual cost of the improvement, as provided in § 94.18 of this chapter.  
(1995 Code, § 46-12) (Ord. 65, passed 11-5-1979)

#### **§ 94.13 OBJECTION TO ASSESSMENT.**

If at or prior to the final confirmation of any special assessments the owners of privately owned real property to be assessed for more than 50% of the cost of an improvement or in the case of paving or similar improvements the owners of more than 50% of the frontage to be assessed for any such improvement shall object in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a 2/3 vote of the members-elect of the Council. This section shall not apply to sidewalk construction.  
(1995 Code, § 46-13) (Ord. 65, passed 11-5-1979)



**§ 94.14 DUE DATE.**

All special assessments, except the installments thereof as the City Council make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll.

(1995 Code, § 46-14) (Ord. 65, passed 11-5-1979)

**§ 94.15 INSTALLMENT PAYMENTS; DUE DATE.**

The City Council may provide for the payment of special assessments in installments. The installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on the date as the Council may determine and the deferred installments shall be due annually thereafter, or, in the discretion of the Council, shall be due annually on the other date as the Council may fix or may be spread upon and made a part of each annual city tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate not to exceed 9% per annum commencing on the date on or after the confirmation as may be fixed by the Council and payable with each installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 30 days from the date of confirmation to pay the full amount of the assessment or the full amount of any installments thereof without penalty or interest. Following the 30-day period, the assessment or first installment thereof shall, if unpaid, be considered delinquent and the same penalties shall be collected on the unpaid assessments or first installments thereof as are provided by law to be collected on delinquent general city taxes. Deferred installments shall be collected without penalty until 30 days after the due date thereof, after which time the installments shall be considered as delinquent and the penalties on the installments shall be collected as are provided by law to be collected on delinquent general city takes. After the City Council has confirmed the roll, the City Treasurer shall notify by mail each property owner on the roll that the roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the City Treasurer to give the notice or of the owner to receive the notice shall not invalidate any special assessment roll of the city or any assessment thereon, nor excuse the payment of interest or penalties.

(1995 Code, § 46-15) (Ord. 65, passed 11-5-1979)

**§ 94.16 DELINQUENCY.**

Any assessment, or part thereof, remaining unpaid on the first Monday of October following the date when the same became delinquent shall be reported as unpaid by the Treasurer to the City Council. Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual city tax roll in a column headed "special assessments," with a penalty of 4% upon the total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of city taxes.

(1995 Code, § 46-16) (Ord. 65-A, passed 6-4-1990)

**§ 94.17 CREATION OF LIEN.**

Special assessments and all interests, penalties, and charges thereon from the date of confirmation of the roll shall become a debt to the city from the persons to whom they are assessed, and, until paid, shall be and remain a lien upon the property assessed, of the same character and effect as the lien created by general law for state, county, and city taxes, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent city taxes constitute a lien. (1995 Code, § 46-17) (Ord. 65, passed 11-5-1979)

**§ 94.18 ADDITIONAL ASSESSMENTS; REFUNDS.**

The Clerk shall, within 60 days after the completion of each local or special public improvement, compile the actual cost thereof and certify the same to the Assessor, who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary by less than 5%, the same shall be reported to the Council, which may place the excess in the city treasury or make a refund thereof pro rata according to the assessment. If the assessment exceeds the amount necessary by 5% or more, the entire excess shall be credited to owners of property as shown by the city assessment roll upon which the assessment has been levied, pro rata according to the assessment. No refunds of special assessments may be made which impair or contravene the provision of any outstanding obligation or bond secured, in whole or in part, by the special assessments. In the case of assessments due in installments, the Council may order the refund given by credit against the installments last coming due. When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed against any one parcel of land shall not exceed the benefits received by the lot or parcel of land. (1995 Code, § 46-18) (Ord. 65, passed 11-5-1979)

**§ 94.19 ADDITIONAL PROCEDURES.**

In any case where the provisions of this chapter may prove to be insufficient to carry out fully the making of any special assessment, the Council shall provide by ordinance any additional steps or procedures required. (1995 Code, § 46-19) (Ord. 65, passed 11-5-1979)

**§ 94.20 COLLECTION.**

If bonds are issued in anticipation of the collection of special assessments as provided in this chapter, all collections on each special assessment roll, or combination of rolls, shall be set in a separate fund for the payment of the principal and interest on the bonds so issued in anticipation of the payment of the special assessments, and shall be used for no other purpose. (1995 Code, § 46-20) (Ord. 65, passed 11-5-1979)

**§ 94.21 ACCOUNTS.**

Moneys raised by special assessment to pay the cost of any local improvements shall be held in a special fund to pay the cost or to repay any money borrowed therefor. Each special assessment account may be used only for the improvement project for which the assessment was levied, expenses incidental thereto, including the repayment of the principal and interest on money borrowed therefor, and to refund excessive assessments, if refunds are authorized.

(1995 Code, § 46-21) (Ord. 65, passed 11-5-1979)

**§ 94.22 CONTESTED ASSESSMENTS.**

An action may not be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

(A) Within 45 days after the confirmation of the special assessment roll, written notice is given to the City Council indicating an intention to file the action and stating the grounds on which it is claimed that the assessment is illegal; and

(B) The action is commenced within 90 days after the confirmation of the roll.  
(1995 Code, § 46-22) (Ord. 65, passed 11-5-1979)

**§ 94.23 REASSESSMENT FOR BENEFITS.**

Whenever the City Council shall deem any special assessment invalid or defective for any reason whatever, in whole or in part, the City Council shall have the power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on the reassessment and for the collection thereof shall be made in the manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall, to that extent, be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making the payment.

(1995 Code, § 46-23) (Ord. 65, passed 11-5-1979)

**§ 94.24 COMBINATION OF PROJECTS.**

The City Council may combine several districts into one project for the purpose of effecting a saving in the costs. There shall be established for each district separate funds and accounts to cover the cost of the same.

(1995 Code, § 46-24) (Ord. 65, passed 11-5-1979)

**§ 94.25 DIVISION OF PARCELS.**

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the Assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The City Treasurer shall, within ten days after the apportionment, send a notice of the action to the persons concerned at their last known address by first-class mail. The apportionment shall be final and conclusive on all parties unless protest, in writing, is received by the City Treasurer within 20 days of the mailing of the notice.

(1995 Code, § 46-25) (Ord. 65, passed 11-5-1979)

**§ 94.26 DEFERRED PAYMENTS.**

The City Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and the Assessor, by reason of hardship are unable to contribute toward the cost thereof. In all the cases, as a condition to the granting of the deferred payments, the city shall require mortgage security on the real property of the beneficiary payable on or before his or her death, or in any event on the sale or transfer of the property.

(1995 Code, § 46-26) (Ord. 65, passed 11-5-1979)

**§ 94.27 RECONSIDERATION OF PETITIONS.**

If the City Council shall fail to make any public improvement petitioned for under the provisions of § 94.04 during the calendar year during which any petition is filed, the petition shall be reconsidered by the Council prior to March 1 of the succeeding calendar year for the purpose of determining whether the improvement should be made during the calendar year.

(1995 Code, § 46-27) (Ord. 65, passed 11-5-1979)

**§ 94.28 HAZARDS AND NUISANCES.**

When 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 which is dangerous to the health or safety of the inhabitants of the city or those of them residing or habitually going near the lot, building, or structure, the Council may, after investigation, give notice to the owner of the land upon which the hazard or nuisance exists or the owner of the building or structure itself, specifying the nature of the hazard and requiring the owner to alter, repair, tear down, or remove same promptly and within a time to be specified by the Council, which shall be commensurate with the nature of the hazard or nuisance. If, at the expiration of the time limit in the notice, the owner has not complied with the requirements thereof, or in any case where 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 department or agency of the city which is qualified to do the work required, and the costs of the work shall become a lien on the real property upon which the hazard or nuisance was located, and shall be collected in accordance with § 94.17.

(1995 Code, § 46-28) (Ord. 65-A, passed 6-4-1990)

# Hot Legal Topics Special Assessments

Michigan Municipal League Convention  
September 15, 2016 • Mackinac Island

Steven Mann, Principal

**MULLER**  
**CANFIELD**

# What is a special assessment?

“the theory of the special assessment is that a special benefit has been conferred, over and above that conferred upon the community itself.”

*Fluckey v City of Plymouth*  
358 Mich. 447 (1960)



# Is a Special Assessment a Tax?

“A special assessment is a levy upon property within a specified district. Although it resembles a tax, a special assessment is not a tax.”

*Kadzban v. City of Grandville*  
442 Mich 495 (1993)  
(quoting *Knott v City of Flint*,  
363 Mich 483 (1961))





# Is a Special Assessment a Tax?

- Special assessments are levied on real property
- Special assessments are not subject to capture by TIF districts
- Administrative tax collection fee does not apply to special assessments
- Property exempt from ad valorem taxes is not exempt from a special assessment\*

\*Except for Act 33 assessments.



# Special Assessments

Home Rule City Act

Permitted power MCL 117.4d

Villages

Home Rule Village Act

General Law Village Act



# Home Rule City Act

MCL 117.4d Permissible charter provisions; assessing costs of public improvement and boulevard lighting system; definitions.

Sec. 4d.

(1) Each city may in its charter provide:

(a) For assessing and reassessing the costs, or a portion of the costs, of a public improvement to a special district.

...

# City Charter Provisions

## Chapter Eleven. - Special Assessments

Section 11.1. - 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.

# City Charter Provisions

## Chapter Eleven. - Special Assessments

Section 11.2. - 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...

# Common Public Improvements

- Roads
- Water System Improvements
- Sewer System Improvements
- Sidewalks, Bike Paths
- Street Lighting
- Garbage Collection and Disposal

# Economic Challenges in Special Assessment Projects

## Sec. 30-19. - Additional assessments.

(a) When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the council may make an additional pro rata assessment, but the total amount assessed against any one (1) parcel of land shall not exceed the benefits derived by the lot or parcel of land.

- Public hearing process
- Opportunity for appeals
- Future projects
  - Be wary of projects dependent on growth
  - Financial guarantees from land owner