

## Chapter 20

### PUBLIC IMPROVEMENTS\*

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\* **Editors Note:** Ord. No. 899, § 1, adopted Mar. 14, 1977, repealed former Ch. 20, §§ 20-1--20-14, 20-25--20-57, 20-67--20-72. Section 2 of said Ord. No. 899 adopted a new Ch. 20 to read as herein set out. Formerly Ch. 20 had pertained to public improvements and had been derived from: Ord. No. 744, § 1, enacted Jan. 5, 1970; Ord. No. 839, § 1, enacted July 29, 1974; Ord. No. 873, §§ 1--3, enacted Oct. 20, 1975.

**Charter References:** Council authorized to perform public improvements, § 15.1; council authorized to defray cost of public improvements by special assessments on property especially benefited, § 14.1; city manager to manage and supervise all public improvements, § 8.2.

**Cross References:** Streets and sidewalks, Ch. 22; subdivisions, Ch. 23; water, sewer and sewage disposal, Ch. 28.

**State Law References:** Advance planning of public improvements by municipal planning commission, M.S.A., § 5.2999.

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#### Art. I. In General, §§ 20-1--20-16

#### Art. II. Special Assessment Procedure Generally, §§ 20-17--20-50

#### Art. III. Advance Financing of Improvements, §§ 20-51--20-56

### ARTICLE I.

#### IN GENERAL

#### Sec. 20-1. City to construct public improvements.

The city shall construct and repair, or cause to be constructed and repaired, all public works improvements deemed necessary for the public health, safety and welfare.

(Ord. No. 899, § 2, 3-14-77)

#### Sec. 20-2. Public works improvements defined.

The term "public works improvements" as used in this chapter shall include:

- (1) Sidewalks.
- (2) Streets.
- (3) Pedestrian malls.
- (4) Water systems.
- (5) Sewer systems.
- (6) Driveway culverts.

(7) Parking facilities.

(8) Drainage facilities.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-3. Financing improvements.**

Construction of public works improvements of the city shall be financed by any method authorized by law including the methods described in Articles II and III of this chapter.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-4. Improvement costs absorbed by city.**

In all public works improvement construction, the city shall pay from properly appropriated funds one hundred (100) per cent of the cost of:

(a) Intersection construction except water and sewer utilities, repair or regarding of manholes, moving of water hydrants, transplanting of trees or planting of new trees, moving of drainage structures or culverts and the cost of any frontage exempted by the provisions of Chapter 22 or otherwise. This subsection shall not apply to improvements installed to satisfy the obligation by statute, ordinance or otherwise of the proprietor of a subdivision.

(b) That part of the cost of a public improvement installed in excess of the need of the benefited district.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-5. Cost items in public works improvements.**

The cost and expense of a public improvement may be made up of the following items:

Labor.

Material.

Equipment expense.

General engineering expense.

Legal expense.

Administrative expense.

Land acquisition expense.

Publication expense.

(Ord. No. 899, § 2, 3-14-77)

**Secs. 20-6--20-16. Reserved.**

## **ARTICLE II.**

### **SPECIAL ASSESSMENT PROCEDURE GENERALLY**

#### **Sec. 20-17. Special assessment procedure.**

Proceedings for the making of public works improvements within the city proposed to be financed in whole or in part by special assessment may be commenced by resolution of the council on its own initiative or by an initiatory petition signed by one (1) or more property owners interested in obtaining the construction of a public works improvement and having the cost of same specially assessed in the district benefited by said improvement. Such initiatory petitions for special assessment projects shall in no event be mandatory upon the city council. The city manager or city clerk shall report the receipt of initiatory petitions to the city council. (Ord. No. 899, § 2, 3-14-77)

#### **Sec. 20-18. City manager's survey and report.**

Before the city council shall consider the construction of any public works improvement to be specially assessed against property benefited thereby, such improvement shall be referred by resolution to the city manager who shall be directed to prepare a report which shall include estimates of the expense thereof, an estimate of the life of the improvement, a description of the district or districts benefited, and plans, diagrams and specifications, when in his opinion practicable, to enable 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 property especially benefited and what part, if any, should be paid by the city at large. (Ord. No. 899, § 2, 3-14-77)

#### **Sec. 20-19. Contents of resolution requiring public hearing on necessity.**

After the city manager has presented the report required by section 20-18, and the council has reviewed such report, a resolution may be passed:

- (1) Determining the apparent necessity of the improvement.
- (2) Setting forth the nature thereof.
- (3) Prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefited, a determination of benefits received by affected properties and what part, if any, shall be paid by the city at large.
- (4) Designating the limits of the special assessment district to be affected.
- (5) Designating whether such project is to be assessed according to frontage or other basis of determining benefit.

- (6) Placing the complete information on file in the office of the city clerk where the same may be found for examination.
- (7) Directing the clerk to publish a notice of public hearing on the proposed improvement, at which time and place opportunity will be given interested persons to be heard.

In no case shall the city council determine to proceed with the making of any public works improvement to be financed by special assessments against benefited property until the hearing on necessity provided for in this article.

(Ord. No. 899, § 2, 3-14-77)

#### **Sec. 20-20. Publication of notice of hearing.**

A notice of hearing required by section 20-19 shall be made by one publication in a newspaper published or circulated within the city at least one week prior to the holding of the hearing on necessity, and a notice of said hearing shall be mailed by first-class mail to persons proposed to be affected by special assessment ten (10) days prior to the holding of said hearing. The hearing required by section 20-19 will be held at any regular or special meeting of the city council.

(Ord. No. 899, § 2, 3-14-77)

#### **Sec. 20-21. Objection to improvement.**

If, at or prior to such meeting of the city council required by section 20-19, property owners of property located in the special assessment district whose property in the aggregate was assessed at fifty (50) per cent or more of the total assessed value of the privately-owned real property located therein in accordance with the last preceding general assessment roll, or in case of paving or similar improvements fifty (50) per cent 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 authorized by this article without a four-fifths affirmative vote of the members of the city council.

(Ord. No. 899, § 2, 3-14-77)

#### **Sec. 20-22. Hearings on necessity.**

At the public hearing on necessity of the proposed improvement, all persons interested shall be given an opportunity to be heard. After this the city council may modify the scope of the public improvement in such manner as they shall deem to be in the best interest of the city as a whole. If it appears that the extent of the public improvement should be increased or enlarged or additions made to the special assessment district, then another hearing shall be had pursuant to notice prescribed in section 20-19.

(Ord. No. 899, § 2, 3-14-77)

#### **Sec. 20-23. Resolution approving project and directing preparation of special assessment roll.**

If, after the hearing required by section 20-19 or further hearings held in accordance with the provisions of section 20-22, the determination of the city council shall be to proceed with any public improvement, a resolution shall be passed approving said improvement according to any plans, diagrams and specifications then on file in the office of the city clerk, the assessment district and detailed estimates of cost, and directing the

assessor to prepare a special assessment roll in accordance with the council's determination and to report the same to the council for confirmation.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-24. Deviation from plans, diagrams and specifications.**

After the adoption of the resolution provided for in section 20-23, the character and extent of the proposed public improvement shall not be substantially altered without the authority of the city council by resolution. A copy of the resolution authorizing such changes or alterations shall be certified by the clerk and shall be attached to any original plans, diagrams or specifications on file in his office. In no case shall the city council enlarge a public improvement project financed pursuant to this article after the determination of the council required by section 20-23 unless the cost of such enlargement is borne by the city at large.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-25. Limitations on preliminary expenses.**

No contract or expenditure, except for the legal, notification and publication costs and the cost of preparing plans, diagrams, specifications and estimates of cost, shall be made for any improvement until a special assessment roll to defray the cost of same shall have been confirmed.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-26. Special assessment roll.**

The assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by any proposed improvement and shall assess to each lot or parcel of land the amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the city manager as approved by the city council.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-27. Assessor to file assessment roll.**

When the assessor shall have completed the assessment roll required by section 20-26, he shall file the same with the city clerk for the presentation to the council for review and certification by it.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-28. Acceptance of special assessment roll; notice of hearing on objections.**

Upon receipt of a special assessment roll, the city council, by resolution, shall accept such assessment roll and order it to be filed in the office of the city clerk for public examination, shall fix the time and place the council will meet to review such special assessment roll, and direct the clerk to publish a notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard. Such notice shall be made by one publication at least one week prior to the holding of such meeting. A notice of said hearing shall be mailed by first-class mail to persons proposed to be specially assessed ten (10) days prior to the holding of said hearing.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-29. When hearing on objections may be held; objections.**

The hearing required by section 20-28 may be held at any regular, adjourned or special meeting of the city council. At this meeting all interested persons or parties shall present their objections, if any, to the assessments against them.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-30. Assessor to be present at special assessment review meetings of city council.**

The city assessor shall be present at every meeting of the city council at which a special assessment is to be considered.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-31. Changes and corrections in assessment roll.**

The city council shall meet at the time and place designated for the review of any special assessment roll pursuant to section 20-28 and at such meeting, or proper adjournment thereof, shall consider all objections thereto. The council may correct such roll as to any special assessment or description of any lot or parcel of land in other errors appearing therein; or it 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.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-32. Resolution confirming assessment roll.**

If, after hearing all objections to any special assessment roll and making a record of such changes as the city council deems justified, the council determines that it is satisfied with said special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the city clerk, and directing the clerk to attach his warrant to a certified copy within ten (10) days, therein commanding the assessor to spread the various sums and amount appearing thereon on a special assessment roll or upon the tax rolls of the city for the full amounts or in annual installments as directed by the council. 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 applied, subject only to adjustment to conform to the actual cost of the improvement as provided in this article.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-33. When special assessments are due and payable.**

All special assessments, except such installments thereof as the city council shall make payable at a future time, shall be due and payable upon confirmation of the special assessment roll.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-34. Payment of special assessments.**

The council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed twenty (20) in number, the first installment being due upon confirmation of the

roll and the deferred installments being due annually thereafter. Provided, however, the council may, in its discretion, spread upon and make a part of each annual city tax roll thereafter the annual installments heretofore mentioned; provided further, that the first annual installment may be spread the next year following the confirmation of said roll. Interest shall be charged on all deferred installments at a rate not to exceed the legal interest rate permitted by law, payable annually; provided, however, after the council has confirmed the roll, the city treasurer shall notify by mail each property owner on said roll that said owner shall have thirty (30) days from the date of such notification to pay said assessment in full and without interest or penalty. Upon the expiration of the thirty-day period, the roll shall be closed for collection and forwarded to the city assessor for spreading said roll on all unpaid assessments in conformity with the council resolution. Following said thirty-day period, the property owner may pay all of his assessment at any time but shall be required to pay interest thereon to the due date of the next installment. Failure on the part of the city treasurer to give said notice or of such owner to receive said notice shall not invalidate any special assessment roll of the city or any assessment thereon nor excuse the payment of said interest.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-35. Lien; status as debt; collection.**

After the date of confirmation of a special assessment roll, the full amount of the assessment and all interest thereon shall constitute a lien upon the premises subject thereto and that amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, may be collected as delinquent city property taxes or by a suit against the person in the name of the city.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-36. Procedure for collection from assessment roll.**

When any special assessment shall be confirmed and be payable, the city council shall direct the assessment made in the special assessment roll to be collected directly therefrom or from the general tax rolls. Thereupon the city clerk shall attach his warrant to a certified copy of such special assessment roll, therein commanding the city treasurer to collect from each of the persons assessed in such roll the amount of money assessed to and set opposite his name therein. Upon receiving any assessment roll and warrant pursuant to this section, the city treasurer shall proceed to collect the amounts assessed therein.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-37. Collection fees.**

From such date after confirmation as shall be fixed by the city council, the collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessments as are provided by the city charter to be collected on delinquent city taxes. Such delinquent special assessments shall be subject to the same penalties and the lands upon which the same are a lien shall be subject to sale therefor the same as are delinquent city taxes and the lands upon which they constitute a lien.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-38. Compiling actual costs; additional assessments; refund.**

The city manager shall, within sixty (60) days after the completion of each public works improvement, compile the actual cost thereof and certify the same to the city council. When any special assessment roll shall

prove insufficient to meet the costs of the improvement for which it was made, the council may make an additional pro rata assessment. Should the assessment prove larger than necessary by an amount of five (5) per cent or more, the council shall make a refund of the excess thereof pro rata according to assessments.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-39. Special assessment accounts.**

Monies raised by special assessment to pay the cost of any public works improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except any excess not refundable under the provisions of section 20-38 shall be paid to the fund from which the city's share of the cost of the improvement was drawn.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-40. Time limitation on contesting assessment.**

Except and unless notice is given to the city council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any public improvement within fifteen (15) days after the date of the resolution of the council confirming the assessment roll for such improvement, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-41. Procedure upon successful contest of assessment.**

When the city council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the council shall have 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 such 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 such payment.  
(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-42. Combination of improvement projects.**

The city council may combine several improvement districts into one project for purpose of effecting a saving in the costs. However, for each district there shall be established a separate account to cover the cost of the same.  
(Ord. No. 899, § 2, 3-14-77)

**Secs. 20-43--20-50. Reserved.**

**ARTICLE III.**



## **ADVANCE FINANCING OF IMPROVEMENTS**

### **Sec. 20-51. Generally.**

Except as otherwise provided herein, proceedings for the construction of public works improvements to be financed in advance shall be initiated and continued in the manner set forth in, and subject to, the provisions of Article II of this chapter.  
(Ord. No. 899, § 2, 3-14-77)

### **Sec. 20-52. Deposit of total cost of project a prerequisite to approval.**

After determining the estimated cost and the proportion thereof of public improvement projects to be defrayed by the city at large, the council may order any public improvement, not included in the current year's construction program, to be made or constructed when such project has been petitioned for by all of the owners of property within the district to be affected or which shall constitute a special assessment district for the payment of the cost of such improvement. However, prior to the commencement of work on the improvement petitioned for, one hundred (100) percent of the total estimated cost and expense of such improvement according to the estimates of the cost thereof and the special assessment roll based thereon shall have been deposited with the city treasurer by the property owners within the district to be affected or constituting such special assessment district.  
(Ord. No. 899, § 2, 3-14-77)

### **Sec. 20-53. Marking assessments as paid.**

In all cases where the total cost of any public improvement has been deposited with the city treasurer prior to commencement of work thereon pursuant to section 20-52, the assessment roll and each assessment appearing thereon shall immediately, upon confirmation of such roll, be marked paid.  
(Ord. No. 899, § 2, 3-14-77)

### **Sec. 20-54. Return of excess funds; city's share of costs.**

In doing any work authorized and financed under the provisions of this article, the city engineer shall keep an accurate record of the cost and expense thereof and, upon completion of the work, shall report such costs and expenses to the council which shall thereupon authorize and direct that the amount, if any, of such money so deposited with the city treasurer which is in excess of the actual cost and expense of the improvements made, shall be repaid by the city treasurer to those persons making such deposit, pro rata according to the several amounts deposited by them. The council shall report to the city treasurer the city's share, if any, of the cost and expense of such improvements as determined by the council under the provisions of Article II of this chapter.  
(Ord. No. 899, § 2, 3-14-77)

### **Sec. 20-55. Repayment of city's share of improvement.**

On or before three (3) years following the fiscal year during which any improvement project is completed, the council may direct that repayment of the city's share shall be made in one lump sum or in annual

equal installments not to exceed ten (10) years to the person or persons making such deposits. Repayment of the city's share may be further delayed if, in the opinion of the council, the property has not sufficiently been developed to warrant the repayment.

(Ord. No. 899, § 2, 3-14-77)

**Sec. 20-56. When water or sewer system improvement is petitioned by persons owning less than all property in district.**

Sections 20-51 through 20-55 shall also apply in the case when a water system or sewer system improvement shall be petitioned by a person or persons owning less than all of the property in such district. In that event one hundred (100) percent of the total estimated cost and expense shall be deposited with the city treasurer. Any property owner not having participated in the one hundred (100) percent deposit who shall later make a connection to a water main or sanitary sewer within the district shall pay a connection fee, in addition to the standard tap-in fees, equal to one-half ( 1/2) the cost of construction of an eight-inch water main in the case of a water main connection, or one-half ( 1/2) the cost of a ten-inch sanitary sewer in the case of a sanitary sewer connection, indexed to the year of construction using *The Engineering News Record*, "The Construction Cost Index," and calculated by; the city engineer on a front foot basis, before such connection is made. The property owner may choose to pay this fee in five (5) installments, the first installment being due at the time of connection, and the deferred installments being due annually thereafter, with interest accumulating at the rate of the most recent rate established by the city council for annual payments of special assessments. In such event, this charge shall constitute a lien on the premises subject thereto. Such addition to the standard tap-in fee shall be paid by the city to the person or persons having made the one hundred (100) percent deposit referred to herein.

(Ord. No. 899, § 2, 3-14-77; Ord. No. 1503, § 1, 4-9-01)