

CHAPTER 3 – SPECIAL ASSESSMENTS

ARTICLE I. ASSESSMENTS FOR ABATEMENT OF HAZARDS AND NUISANCES.

ARTICLE II. SPECIAL ASSESSMENTS FOR LOCAL PUBLIC IMPROVEMENTS

ARTICLE I. ASSESSMENTS FOR ABATEMENT OF HAZARDS AND NUISANCES.

Sec. 3-1. Hazards and nuisances.

Sec. 3-2_3-15. Reserved.

Sec. 3-1. Hazards and nuisances.

- a. When any lot, building or structure within the village, because of the accumulation of refuse or debris, the uncontrolled growing of weeds, age, dilapidation, or because of any other condition or happening, becomes a hazard or nuisance dangerous to the health, safety, or welfare of the inhabitants of the village the village council may, after investigation, give notice to the owner of the land upon which such hazard or nuisance exists, or the owner of the building or structure itself, specifying the nature of the hazard or nuisance, and requiring such owner(s) to alter, repair, tear down, remove, or otherwise abate the same promptly and within a time to be specified by the village council, which shall be commensurate with the nature of the hazard or nuisance.
- b. If, at the expiration of the time limit in such notice, such owner(s) has not complied with the requirements of such notice, or in any case where the owner of the land, building or structure itself is not known, the village may order such hazard or nuisance abated by the proper department or other designated agency qualified to do the work required. All costs of such abatement shall be assessed against the lot, premises or description of real property upon which such hazard or nuisance was located.

(Ord. #472 passed 11-21-16)

Secs. 3-2_3-15. Reserved.

(Ord. #472 passed 11-21-16)

ARTICLE II. SPECIAL ASSESSMENTS FOR LOCAL PUBLIC IMPROVEMENTS

- Sec. 3-16. Definitions.
- Sec. 3-17. Authority to assess.
- Sec. 3-18. Initiation of special assessment projects.
- Sec. 3-19. Initiation by petition.
- Sec. 3-20. Local public improvement assessment report.
- Sec. 3-21. Determination of the project; notice.
- Sec. 3-22. Hearing on necessity.
- Sec. 3-23. Deviation from plans and specifications.
- Sec. 3-24. Limitations on preliminary expenses.
- Sec. 3-25. Special assessment roll.
- Sec. 3-26. Notice of hearings.
- Sec. 3-27. Review of special assessment roll; changes and corrections.
- Sec. 3-28. Objection to assessment.
- Sec. 3-29. Payment of special assessment.
- Sec. 3-30. Partial payments; due date.
- Sec. 3-31. Delinquent special assessments.
- Sec. 3-32. Creation of lien.
- Sec. 3-33. Additional assessments; refunds.
- Sec. 3-34. Additional procedures.
- Sec. 3-35. Collection of special assessments, special assessment accounts.
- Sec. 3-36. Contested assessments.
- Sec. 3-37. Reassessment for benefits.
- Sec. 3-38. Combination of projects.
- Sec. 3-39. Division of parcels.
- Sec. 3-40. Deferred payments of special assessments.
- Sec. 3-41. Reconsideration of petitions.
- Sec. 3-42_3-50. Reserved.

Sec. 3-16. Definitions.

- a. Words, terms and phrases shall have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - Cost: The total expense for services, plans, condemnation, development of special assessment rolls, notices, advertising, financing, construction, legal fees, interest on special assessment bonds not to exceed one year, and all other expenses incidental to the making of public improvements, the special assessments therefor, and the financing thereof.
 - Local public improvement: A public improvement which is of such a nature as to benefit especially any real property or properties within a district in the vicinity of such improvement.

(Ord. #472 passed 11-21-16)

Sec. 3-17. Authority to assess.

- a. The whole cost or any part of such cost of any local public improvement may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner provided in this division.

(Ord. #472 passed 11-21-16)

Sec. 3-18. Initiation of special assessment projects.

- a. Proceedings for the making of local public improvements within the village may be commenced by resolution of the council, with or without a petition, when the council has determined the tentative necessity of such improvement, and that the whole or any part of the expense of such improvement, shall be defrayed by special assessment upon the property or properties especially benefited, provided that all special assessments levied shall be in proportion to the benefits derived from the improvements.

(Ord. #472 passed 11-21-16)

Sec. 3-19. Initiation by petition.

- a. 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 percent of the total assessed value of the privately owned real property located therein, all shown by the last preceding general tax records of the village. Such 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 percent, the clerk shall certify such figure to the 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.

(Ord. #472 passed 11-21-16)

Sec. 3-20. Local public improvement assessment report.

- a. Before the council shall consider the making of any local public improvement, the council shall cause to be prepared an assessment report which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the period of usefulness of the improvement, a description of the assessment district, and such other pertinent information as will permit the council to decide the cost, extent and necessity of the improvement proposed, and what part or proportion of such improvement should be paid by special assessments upon the property or properties especially benefited and what part, if any, should be paid by the village at large. The council shall not proceed with the making of any local public improvement until such report is filed, nor until after a public hearing has been held by the council for the purpose of receiving public input on the proposed public improvement.

(Ord. #472 passed 11-21-16)

Sec. 3-21. Determination of the project; notice.

- a. After reviewing the public improvement assessment report, required in Sec. 3-20, above, the council may pass a resolution determining the necessity of the improvement; setting forth the nature of such improvement; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property or properties especially benefited; determining the benefits received by affected properties, and what part, if any, shall be paid by the village at large; designating the limits of the special assessment district to be affected; and, specifying whether the assessment shall be levied according to frontage or other benefits. The complete information shall be filed in the office of the Village Clerk, where the information may be found for examination, and the Village Clerk shall be directed to give notice of public hearing on the proposed improvement as provided in this section and Sec. 3-26.

(Ord. #472 passed 11-21-16)

Sec. 3-22. Hearing on necessity.

- a. A hearing on the necessity of the proposed public improvement shall be held by the council for the purpose of receiving public input. All persons interested in the proposed improvement shall be given an opportunity to be heard. After receiving public input, if the determination of the council is to proceed with the improvement as proposed, a resolution shall be passed approving

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

the necessary profiles, plans, specifications, 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 report the same to the council for confirmation.

- b. The council may modify the scope of the local public improvement in such a manner as they shall deem to be in the best interest of the village as a whole, however, if the amount of work is increased or additions are made to the district, then another hearing on addressing the necessity of such increases or additions shall be held after notice is given as prescribed in Sec. 3-26.

(Ord. #472 passed 11-21-16)

Sec. 3-23. Deviation from plans and specifications.

- a. No deviation from the approved plans or specifications as adopted shall be permitted by any officer or employee of the village without authority of the council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the Village Clerk and attached to the original plans and specifications on file.

(Ord. #472 passed 11-21-16)

Sec. 3-24. Limitations on preliminary expenses.

- a. The 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 improvement shall have been made and confirmed.

(Ord. #472 passed 11-21-16)

Sec. 3-25. Special assessment roll.

- a. The assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement, and assess to each lot or parcel of land the proportionate amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of cost as approved by the council.
- b. Upon completion, the assessor shall file the special assessment district role with the Village Clerk for presentation to the council for its review and certification.
- c. Upon receipt of the special assessment roll, the council, by resolution, shall accept the assessment roll and order it to be filed in the office of the Village Clerk for public examination, shall fix the time and place the council will meet to review such special assessment roll and

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

direct the village clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard.

(Ord. #472 passed 11-21-16)

-Sec. 3-26. Notice of hearings.

- a. Notice of hearings and special assessment proceedings shall be given to each owner of, or party in interest in property to be assessed whose name appears upon the last local tax assessment records. Notice shall be by First Class mail addressed to that owner or party in interest at the address shown on the tax records, at least ten days before the date of such hearing. For the purposes of this section, the last local tax assessment records means the last assessment roll for ad valorem tax purposes which has been reviewed by the local board of review, as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed on that roll.
- b. Notice shall also be given once by publication in a newspaper published or circulated within the village at least seven full days prior to the date of the hearing.
- c. The notice of hearing 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 shall include a statement that the owner or any person 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.

(Ord. #472 passed 11-21-16)

Sec. 3-27. Review of special assessment roll; changes and corrections.

- a. The public hearing required by this division may be held at any regular, adjourned or special meeting of the council. The assessor shall be present at every meeting of the council at which a special assessment is to be reviewed.
- b. The council shall meet at the time and place designated for the review of such special assessment roll, and at such meeting, shall consider all objections thereto. An owner or party in interest, or his/her authorized agent, may appear in person at the hearing to protest the special assessment, or shall be permitted to file his appearance or protest by letter, and his personal appearance shall not be required. The council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance was recorded is considered to have protested the special assessment in person.

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

- c. The 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 conducted in making a new assessment roll as in the making of the original roll.
- d. If after hearing all objections and making a record of such changes as the council deems justified, and the council determining that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, the council shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the Village Clerk and directing the Village Clerk to attach his/her warrant to a certified copy of such roll 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 in the manner provided in section 34 of Public Act No. 4 of 1974 (MCL 68.34), as amended, and subject to adjustment to conform to the actual cost of the improvement.

(Ord. #472 passed 11-21-16)

Sec. 3-28. Objection to assessment.

- a. 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 percent of the cost of an improvement, or in the case of paving or similar improvements the owners of more than 50 percent 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 division without a five-sevenths vote of the members elect of the council, provided also that this section shall not apply to sidewalk construction.

(Ord. #472 passed 11-21-16)

Sec. 3-29. Payment of special assessment.

- a. All special assessments, except such installments of special assessments as the council shall make payable at a future time as provided in this division, shall be due and payable upon confirmation of the special assessment roll.

(Ord. #472 passed 11-21-16)

Sec. 3-30. Partial payments; due date.

- a. The council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on such date as the council may determine, and deferred installments being due annually thereafter, or in the discretion of the council, may be spread upon and made

CODE OF ORDINANCES, VILLAGE OF ELK RAPIDS

a part of each annual village tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate to be determined by the Village Council not to exceed seven percent per annum, commencing on the due date of the first installment, or 60 days after the date of confirmation if the first installment is not due upon confirmation, and payable on the due date of each subsequent 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 of such installments.

- b. If the full assessment or the first installment of such assessment shall be due upon confirmation, each property owner shall have 60 days from the date of confirmation to pay the full amount of such assessment, or the full amount of any installments, without interest or penalty. Following such 60-day period, the assessment or first installment of the assessment shall, if unpaid, be considered as delinquent, and the same penalties shall be collected on such unpaid assessments or first installments of such assessments as are provided by law to be collected on delinquent general village taxes. Deferred installments shall be collected without penalty until 60 days after the due date of such installments, after which time such installments shall be considered as delinquent, and such penalties on such installments shall be collected as are provided by law to be collected on delinquent general village taxes.
- c. After the council has confirmed the roll, the Village Treasurer shall notify by mail each property owner on such roll that such roll has been filed, stating the amount assessed and the terms of payment. Failure of such owner to receive such notice, shall not invalidate any special assessment roll of the village or any assessment thereon, nor excuse the payment of interest or penalties.

(Ord. #472 passed 11-21-16)

Sec. 3-31. Delinquent special assessments.

- a. Any delinquent assessment, or part of such delinquent assessment, remaining unpaid on the first Monday of March following the date when the assessment became delinquent shall be reported as unpaid by the treasurer to the council. Any such delinquent assessment, together with all accrued interest shall be transferred and reassessed on the next annual village tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total amount added thereto and, when so transferred and reassessed upon such tax roll, shall be collected in all respects as provided for the collection of village taxes.

(Ord. #472 passed 11-21-16)

Sec. 3-32. Creation of lien.

- a. Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the village 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 village taxes. The lands upon which the special assessments and interest, penalties and charges thereon are a lien shall be subject to sale therefor the same as are lands upon which delinquent village taxes constitute a lien. (Ord. #472 passed 11-21-16)

Sec. 3-33. Additional assessments; refunds.

- a. The Village Clerk shall, within 60 days after the completion of each local or special public improvement, compile the actual cost of such improvement and certify the cost to the assessor who shall adjust the special assessment roll to correspond therewith. Should the assessment prove larger than necessary by less than five percent, the assessment shall be reported to the council which may place the excess in the village treasury or make a refund pro rata according to the assessment. If the assessment exceeds the amount necessary by five percent or more, the entire excess shall be credited to owners of property as shown by the village assessment roll upon which such 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 part by such 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 such lot or parcel of land.

(Ord. #472 passed 11-21-16)

Sec. 3-34. Additional procedures.

- a. When provisions of this division prove to be insufficient to fully carry out the making of any special assessment, the council shall provide by ordinance any additional steps or procedures necessary.

(Ord. #472 passed 11-21-16)

Sec. 3-35. Collection of special assessments, special assessment accounts.

- a. Moneys raised, borrowed and/or collected by special assessment to pay the cost of any local public improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account shall 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.

(Ord. #472 passed 11-21-16)

Sec. 3-36. Contested assessments.

- a. An action to contest or enjoin the collection of a special assessment shall be instituted under the tax tribunal act, Public Act No. 186 of 1973 (MCL 205.701 et seq.).

(Ord. #472 passed 11-21-16)

Sec. 3-37. Re-assessment.

- a. Whenever the council shall, for any reason, deem a special assessment invalid or defective, 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 original assessment was made, whether the improvement or any part of such improvement has been completed, and whether any part of the assessment has been collected or not. All proceedings on such re-assessment and for its collection shall be made in the manner as provided for in the original assessment. If any portion of the original assessment shall have been collected and not refunded it shall be applied upon the re-assessment and the re-assessment shall, to that extent, be deemed satisfied. If more than the amount re-assessed shall have been collected, the balance shall be refunded prorate to the Owners of property as shown by the village assessment roll upon which such assessment has been levied, pro rata according to the assessment.

(Ord. #472 passed 11-21-16)

Sec. 3-38. Combination of projects.

- a. The 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.

(Ord. #472 passed 11-21-16)

Sec. 3-39. Division of parcels.

- a. 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 Village Treasurer shall, within ten days after such apportionment, send notice of such action to the persons concerned at their last known address by first class mail. Such apportionment shall be final and conclusive on all parties unless contested in writing within 20 days of the mailing of such notice.

(Ord. #472 passed 11-21-16)

Sec. 3-40. Deferred payments of special assessments.

- a. The 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 poverty, are unable to contribute toward the cost of such assessment. In all such cases, as a condition to the granting of such deferred payments, the village shall require mortgage security on the real property of the beneficiary payable on or before his/her death, or, in any event, on the sale or transfer of the property. (Ord. #472 passed 11-21-16)

Sec. 3-41. Re-consideration of petitions.

- a. If, during the calendar year in which any petition is filed under the provisions of this Division, the council shall fail to make any public improvement, such petition shall be reconsidered by the council by March 1 of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

(Ord. #472 passed 11-21-16)

Sec. 3-42_3-50. Reserved.

(Ord. #472 passed 11-21-16)