

AN ORDINANCE ADOPTING SPECIAL ASSESSMENT PROCEDURE  
TO MAKE PUBLIC IMPROVEMENTS

THE CITY OF GRANT ORDAINS:

Section 1. Purpose of Ordinance.

It is the purpose of this ordinance to encourage the development of the city by establishing a procedure for financing and constructing needed public improvements such as, but not limited to, sanitary sewers, storm sewers, curb, gutter and blacktop streets, water mains, parking lots, antipollution equipment and facilities, sidewalks, etc. All special assessments shall be made in accordance with the provisions of this ordinance.

Section 2. Assessable public improvement expenses generally.

The expense of any public improvement that shall confer upon any land or premises special benefits in addition to those conferred upon the general public may be defrayed in whole or in part by a special assessment on the lands and premises so benefitted.

Section 3. Advisory petitions--Requests by city commission; receipt of voluntary presentation.

The city commission, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvements to be made, may request and receive a petition therefor or may receive such a petition voluntarily presented; provided, that, in either event, such petition shall be advisory only and shall not be jurisdictional.

Section 4. Same--Addressing, contents and signing.

All advisory petitions shall be addressed to the city commission and contain a brief description of the improvement sought to be made and shall be signed by property owners only, whose signatures shall be followed by a brief description of the property owned by them. The signatures on such petitions shall be verified by the oath of one or more of the circulators of such petition, before filing.

Section 5. Same--Survey and report by city clerk, filing, checking and presentation.

Advisory petitions shall be filed with the city clerk, who shall check them for correctness, conduct a survey and prepare a report concerning the need for, desirable extent of, and probable cost of the proposed public improvement, and, thereafter, if said petitions are found to be in order, shall present them to the city commission at its next regular or special meeting called for that purpose.



Section 6. Actions of city commission prerequisite to issuance of levy order.

Should the city commission determine that the public improvement mentioned in the advisory petition, or any other public improvement, to be advisable it shall take the following action by resolution before any special assessment order is levied:

(a) It shall define the improvement with a reasonable degree of certainty.

(b) It shall determine the necessity therefor.

(c) It shall determine what portion of the cost shall be defrayed by special assessment and the basis on which said assessment shall be spread.

(d) It shall designate the district or lands and premises on which the special assessment shall be levied.

(e) It shall cause adequate plans and estimates of the cost thereof to be made and filed in the office of the city clerk for public inspection.

(f) It shall designate a time and place for hearing objections to or suggestions concerning the improvement and the levying of the special assessment.

(g) It shall give notice of the proposed special assessment to each owner of or party in interest in property to be assessed, whose name appears upon the last local tax assessment records, by mailing a notice thereof by first class mail addressed to such owner or party at the address shown on the tax records, at least ten days before the date of such hearing. In the event the owners of said property are unknown and cannot be reasonably ascertained notice may be given by publishing in a newspaper published or circulated in the city once each week for two successive weeks prior to the date of hearing.

(h) It shall give notice that it has taken the steps recited in this section and of the time and place of hearing by publishing a notice thereof in one or more newspapers in general circulation within the city for at least one day for two successive weeks prior thereto; provided, that the time set for the hearing shall not be less than three days after publication of last notice.

Section 7. Hearing generally.

At the time and place specified in the notice for the public hearing, the city commission shall meet and hear any person to be affected by the proposed public improvement. The hearing may be adjourned from time to time by the city commission and the city commission may make any changes in the proposed work or assessment which shall seem reasonable or proper in view of any objections or suggestions or for any other reason which may appear to be for the



best interest of the city; provided, that if the improvements intended to be made are enlarged upon or additions made to the district to be assessed, such enlargement shall not be done until after another hearing is held pursuant to notices as required by original hearings.

Section 8. Protest of owners to be assessed.

No such improvement shall be made if the owners of more than two-thirds of the property to be assessed shall object thereto in writing; provided, that if the city commission shall determine and declare by a resolution unanimously adopted that the proposed improvement is necessary for the public health, welfare or safety, such improvement may be made and such special assessment may be levied therefor, notwithstanding such objections thereto.

Section 9. Amount levied not limited by assessed valuation of premises.

The whole amount to be levied upon the premises subject to such special assessment shall not be limited by the assessed valuation of the property subject to such special assessment.

Section 10. Factors used to determine amount.

For the purpose of determining the amount of the special assessment, the cost of such improvement shall include but not be limited to the cost of plans, surveys, right-of-way, estimates, construction, labor, equipment rental, inspection, legal expenses plus up to fifteen percent of the actual cost of the project for engineering, administration and overhead.

Section 11. Determinations to be made by city commission after hearing.

At the conclusion of the public hearing required by section 7, the city commission shall determine the necessity of the proposed improvement and special assessment; and if determined necessary, the city commission shall order the special assessment by resolution which shall determine whether it is to be done by contract or force account, the share to be paid by the city at large, whether the assessment is to be made by frontage, benefit or other legal manner and shall designate the several lots or premises to be assessed, the amount of the assessment, the number of installments if it is to be paid in installments, the rate of interest to be charged on the unpaid balance and shall designate the name or number by which such assessment roll shall be known and referred to. The city commission shall also determine the probable life of the improvement.

Section 12. Method of making assessment--Generally.

Special assessments may be made according to the frontage or benefits or such other legal manner, as the city commission shall determine. When made according to benefits, they shall be made by the city commission sitting as a board of special assessors; when made



according to frontage, the city assessor shall prepare the assessment roll.

Section 13. Same--By frontage; by benefits.

If the assessment is to be made according to frontage each lot or parcel of land shall be assessed such relative portion of the whole amount to be levied as the frontage of such lot or parcel on the improvement bears to the whole frontage of all lots or parcels to be assessed; provided, that if by reason of the shape or size of any parcel such an assessment will be inequitable, the relative frontage may be changed by the board of special assessors to meet those conditions.

If the assessment is to be made according to benefits, each lot or parcel shall be assessed such relative portions of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot or parcel from the improvement.

Section 14. Special assessment roll--Contents.

The special assessment roll shall contain an accurate description of each parcel of land in the special assessment district, the frontage on the improvement, if the assessment is to be made by frontage, and the amount of the several installments when the assessment is payable in installments.

Section 15. Same--Certification by assessor or board of special assessors; filing; notice of hearing.

The assessor or board of special assessors, as the case may be, shall attach to such special assessment roll a certificate showing the action taken by him and shall thereupon file the roll with the city clerk who shall give notice of the time and place when the city commission shall review such roll and hear objections thereto by publishing such notice once a week for two successive weeks in one or more papers published or circulating in the city. The clerk shall also mail notice of the hearing to each property owner listed in such roll at least ten days before the date of such hearing.

Section 16. Same--Review by city commission.

At the time appointed or at some adjourned hearing the city commission shall review the roll and shall hear and consider all objections thereto whether written or oral. The city commission may make any corrections deemed necessary, or may refer the roll back to the assessor or board of special assessors with directions to correct such roll or to make a new roll as conditions may require. If the roll shall be approved, the city commission shall pass a resolution confirming it and the clerk shall endorse thereon a certificate showing the confirmation and the date thereof. The said resolution shall include the date on which the special assessment, or the first installment, if applicable, is payable, the number of annual installments, if allowed, and the rate of interest on each deferred installment.



Section 17. Same--Endorsement or attachment of mayor's warrant.

Upon the confirmation of such assessment roll the mayor shall endorse thereon or attach thereto his warrant bearing the date, the date of confirmation and commanding the city treasurer to collect the several sums therein assessed.

Section 18. Lien and collection of special assessments.

Upon the confirmation of each special assessment roll, the special assessments thereon shall become a debt to the city from the persons to whom they are assessed and, until paid, shall be a lien upon the property assessed, for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as created for city taxes. Unpaid installments of special assessments shall be spread upon the city tax roll or the the tax roll for the collection of county and school taxes, or both, as the city commission may direct and, when so spread, shall be collected in the same manner as the taxes on such rolls and shall be subject to the same collection charges and the addition of interest thereto as taxes which are spread upon the city tax roll, and with like effect in all respects. Such special assessment installments as remain unpaid on the first day of March after spreading thereof on such tax rolls, together with any collection charges and interest added thereto, shall be collected in the same manner as delinquent city taxes are collected.

Section 19. Special assessment accounts.

Moneys 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 costs of the improvement for which the assessment was levied and of expenses incidental thereto, including the repayment of the principal of or interest on money borrowed therefor, and to refund excessive assessments, if refunds be authorized.

Section 20. 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. Whenever one or more parcels of land will each be required to pay twenty-five percent or more of the cost of any public improvement and any portion of one or more of such parcel or parcels of land is acquired by condemnation or otherwise for the purpose thereof, that part of the cost of the improvement represented by damages for injury to improvements on such property shall be assumed in full by the city, and shall not be included in the special assessment charged to any property benefitted.



Section 21. Limitation 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, (1) unless, within thirty days after the confirmation of the special assessment 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) unless such suit or action shall be commenced within ninety days after the confirmation of the roll.

Section 22. Division of assessment on change of ownership of portion of assessed land.

In case there shall be a change in the ownership in a portion of any of the lots or parcels described in such assessment roll, the treasurer may divide the assessment and allow each portion to be paid by itself; in case of assessment by frontage the division shall be made in proportion to the number of feet frontage; in case of assessment by benefits, it shall be made in proportion to the area of the respective portions.

Section 23. Certain postponements of payment.

The city commission may provide that any person who, in the opinion of the assessor and commission, by reason of poverty is unable to contribute toward the cost of the making of a public improvement, 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 benefited by any public improvement, which lien will mature and be effective from and after the execution of such instrument, shall be recorded with the Register of Deeds of Newaygo County, and shall not be discharged or released, until the terms thereof are met in full. The city commission shall establish the procedure for making this section effective.

Section 24. All real property liable for special assessment.

All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefiting such property, unless specifically exempted from special assessments by law.

Section 25. Reassessment of invalid or defective assessments.

Whenever the city commission 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, the city commission 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 made or not and whether any part of the assessment has been paid or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided



for in the original assessment. If any portion of the original assessment shall have been paid and not refunded, it shall to that extent be deemed satisfied. If more than the amount reassessed shall have been paid, the balance shall be refunded to the person making such payment.

Section 26. Invalidity due to improper assessment procedure by city commission.

No special assessment shall be held invalid by any court by reason of the failure of the city commission to take any of the steps herein prescribed before the assessment is ordered; provided, that the notice of hearing herein before prescribed shall have been given and the hearing actually held and no objections on the ground of such failure shall have been made; nor shall any such special assessment be held invalid by reason of any default of the city or its officers in the making of such assessment; provided, that the notice of the confirmation of the assessment roll shall have been given and the hearing thereof held and such objections shall not have been raised or urged at such hearing.

Section 27. Effect on city lien of order vacating assessment.

No judgment or decree or any act of the city commission vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount as may be equitably charged against the same or as by a regular mode of proceedings might have been lawfully assessed thereon.

Section 28. Collection by court action--Generally.

At any time after any special assessment has become due and payable, such assessment may be collected by suit in the name of the city against the person assessed by commencement of an action in any court having jurisdiction of the amount. The special assessment roll and the certificate of the confirmation thereof endorsed thereon and the warrant for the collection thereof shall be prima facie evidence of the regularity of all the proceedings in making the assessment, and of the right of the city to receive judgment therefor.

Section 29. Same--Judgments for properly chargeable amounts where assessment was improper.

If in such court action it shall appear that by reason of any irregularity or informality the assessment has not been properly made against the defendant or the lot or premises sought to be charged, the court nevertheless, on proof that the expense has been incurred by the city which is a proper charge against the defendant or the lot or premises in question, shall render judgment for the amount properly chargeable against such defendant or upon such lot or premises.



Section 30. Same--Effect on lien created by ordinance.

The bringing of a court suit by the city for collection of an unpaid assessment shall not be deemed a waiver of the lien created by this ordinance and the special assessment or of the right to enforce such lien in the manner provided therefor.

Section 31. Written contracts in lieu of procedures of ordinance.

In the event that all persons or property owners to be affected by any proposed improvement agree that such proposed improvement be made and that a special assessment be levied in connection therewith, the city may, in lieu of the procedure set forth in this ordinance, enter into a written contract with all of the persons or property owners affected thereby, which contract, when properly approved and executed, shall operate as a complete special assessment procedure; and the assessment shall be made in accordance with such contract.

Section 32. Spreading of estimated costs of issuance of bonds; reassessment of costs after completion of improvement.

In cases where it is necessary for the city to issue special assessment bonds to finance the property owner's share of a public improvement, the city may hold the hearing required by this ordinance and spread the estimated cost of the proposed special assessment to provide security for such bonds.

At such time as the public improvement is completed and actual costs plus a reasonable charge for engineering, overhead and administration charges are determined, the city commission may reassess any additional cost in a supplemental roll following the same procedures as outlined in this ordinance. Should the costs be less than originally estimated and assessed, credit shall be given toward future installments and where assessments have been paid in full, cash refunds shall be made; provided, that should any refund be less than five percent of the amount special assessed, the refund shall not be refunded in cash but credited to the city general fund.

Section 33. Utilization of other procedures when local financing is available.

It is the intention of this ordinance to allow the city commission to proceed with public improvements when local financing is available and in accordance with the provisions of this ordinance do the necessary construction by contract or force account, keeping accurate records of such costs incurred and prepare a special assessment roll in the usual manner based on the total cost plus a reasonable charge for engineering, administration and overhead. The total cost or such portion of the total cost as the city commission may determine shall then be assessed equitably among the property owners involved in the special assessment district either on a frontage, benefit or other legal manner as provided for in this ordinance. In this situation or situations of this type, the assessor or board of special assessors, as the case may be, shall not prepare



the special assessment roll until the correct figure to be spread is presented to him or them.

Section 34. Deductions where improvements are over size, etc., to provide extra capacity, etc.

The city commission may make deductions from the costs of special assessment projects where it can be demonstrated that additional costs were incurred for the improvement for over size or extra strength pipe, extra wide streets or extra heavy construction to provide additional capacity or service over and above what may be considered needed or normal for the neighborhood or district involved.

This Ordinance is hereby declared to be effective 7-31, 1985.

Commission member \_\_\_\_\_, moved the adoption of the foregoing ordinance which was supported by Commission member \_\_\_\_\_, and thereupon adopted by the City Commission of the City of Grant at a meeting hereof held 7-11, 1985.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk