

what part or proportion thereof should be paid by special assessments upon the property benefited and what part, if any, should be paid by the city at large.

(d) Cost of Condemned Property Added: Whenever any property is acquired by condemnation, or otherwise, for the purpose of any special improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such special improvement.

(e) Determination on the Project, Notice: After the City Administrator has presented the report required in paragraph (c), for making any local or public improvement as requested in the resolution of the Council and it has reviewed said report, a resolution may be passed determining the necessity of the improvement; setting forth the nature thereof; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid to the city at large; designating the limits of the special assessment district to be affected; designating whether to be assessed according to frontage or benefits; placing the complete information on file in the office of the Clerk where the same may be found for examination; and directing the Clerk to public a notice of public hearing on the proposed improvement at which time and place opportunity will be given interested persons to be heard. Such notice shall be made by publication in a newspaper published or circulated within the city at least one (1) week prior to the holding of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council.

(f) Objections to Improvement: If, at or prior to such meeting of the Council, more than fifty (50) per cent of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty (50) per cent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made.

(g) Determination by the Council: At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the public improvement if necessary, in such manner as they shall deem to be in the best interest of the city as a whole. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, and 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 them for confirmation.

(h) Deviation from Plans and Specification: No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the city without authority of the Council by resolution. A copy of the resolution authorizing such changes or deviation shall be certified by the Clerk and attached to the original plans and specifications on file in his office.

(i) Financing Public Improvements: The Council shall specify the provisions and procedures for financing the improvements. No contract for expenditure, except for the cost of preparing necessary profiles, plans, specifications, and estimates of cost shall be made for the same until special assessments to defray the cost of the improvement shall have been levied.

(j) Special Assessment Roll: 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 amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the City Administrator as approved by the Council.

(k) Assessor to Attach Certificate to Assessment Roll: When the Assessor shall have completed such assessment roll, he shall file the same with the Clerk for presentation to the Council for review and certification by it.

(l) Meeting to Review Special Assessment Roll—Objections in Writing: Upon receipt of such special assessment roll, the Council, by resolution, shall accept such 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 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 publication at least one (1) week prior to the holding of the hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council. At this meeting, all interested persons or parties shall present their objections, if any, to the assessments against them in writing. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

(m) Changes and Corrections in Assessment Roll: The Council shall meet at the time and place designated for the review of such assessment roll and, at such meeting, or proper adjournment thereof, shall consider all objections thereto submitted in writing. The Council may correct said 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 such assessment roll and the same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council is satisfied with said special assessment roll, it shall thereupon pass a resolution confirming such roll, placing it on file in the office of the 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 amounts appearing thereon on a special assessment roll or upon the tax rolls of

the city for the full amounts or in the 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 applies, subject only to adjustment to conform to the actual cost of the improvement, as provided in paragraph (r) of this section.

(n) Collection of Special Assessments: All special assessments, except such installments thereof as the Council shall make payable at a future time as provided in this section, shall be due and payable upon confirmation of the special assessment roll.

(o) The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed ten (10) in number, the first installment being due upon confirmation of the roll and the deferred installments being due annually thereafter, or, in the discretion of the Council may be spread upon and made a part of each annual city tax roll thereafter, until all annual installments have been spread. Interest shall be charged on all deferred installments at a rate not to exceed six (6) per cent per annum, payable annually; the whole or any deferred installments, with interest accrued thereon, to the date of payment, may be paid in advance of the due dates herein established.

(p) Delinquent Special Assessments: Special Assessments and all interest and charges thereon, from the date of confirmation of the roll, 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 and county taxes, and by this Charter for city taxes, until paid. From such date after confirmation as shall be fixed by the Council, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessments as are provided by this 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.

(q) Additional Assessments, Refunds: The City Administrator shall, within sixty (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, subject to the limitation contained in paragraph (j). 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 assessed shall not exceed the maximum amount permitted by paragraph (j). Should the assessment prove larger than necessary by five (5) per cent or less, 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 assessments. If the assessment exceeds five (5) per cent, the entire excess shall be refunded to owners of property upon which payments have been made in full pro rata according to assessments.

(r) Additional Procedures: In any case where the provisions of this section may prove to be insufficient to carry into full effect the making of any special assessment, the Council shall provide by ordinance any additional steps or procedures required to effect the improvement by special assessment.

(s) Special Assessment Accounts: Except as otherwise provided in this section, moneys raised by special assessment to pay the cost of any local 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 as otherwise provided in this section.

(t) Contested Assessments: Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any public improvement or the removal or abatement of any public hazard or nuisance, within fifteen (15) days after the date of the resolution of the Council confirming the assessment roll for such improvement, as required in paragraph (l) of this section, 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.

(u) Reassessment for Benefits: Whenever the 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 used for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed or not, 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 same 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.

CHAPTER 10

Utilities — Franchises — Permits

SECTION 10.1 PUBLIC UTILITY FRANCHISES:

All irrevocable Public Utility Franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefor has been filed with the Council, nor until a

full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved by three-fifths (3/5) of the electors voting thereon. No such ordinance shall be submitted to the electors at an election to be held less than sixty (60) days after the grantee named therein has filed its unconditional acceptance of such franchise, and it shall not be submitted to a special election unless the expense of holding the election as determined by the Council shall have been paid to the Treasurer by the grantee. No exclusive franchises shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years. No such franchise shall be transferable, directly or indirectly, except with the approval of the Council expressed by ordinance.

SECTION 10.2 RIGHT OF REGULATION:

All public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

(a) To repeal the same for misuse or nonuse, or for failure to comply therewith;

(b) To require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standard of efficiency;

(c) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.

(e) To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

SECTION 10.3 REGULATION OF RATES:

All public utility franchises shall make provision for fixing rates, fares and charges, and for readjustments thereof, either upon terms to be specifically set forth in the franchise or, at the election of the City, by appeal to the Michigan Public Service Commission or any other proper State Agency. The value of the property of the utility used as a basis for fixing such rates, fare and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

SECTION 10.4 PURCHASE, CONDEMNATION:

The City shall have the right to acquire by purchase, condemnation or otherwise the property of any Public Utility in accordance with the general laws of the State, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill or prospective profits.

SECTION 10.5 REVOCABLE PERMITS:

Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises. Any such resolution shall be subject to the referendum provided for in this Charter.

SECTION 10.6 JOINT USE:

Every public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and public places of the city or other public utilities insofar as such joint use may be reasonably practicable upon payment of reasonable rental therefor; provided that in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, which award shall be final.

SECTION 10.7 USE OF STREETS:

The right to use, control and regulate use of its streets, alleys, bridges, and public places, and the space above and beneath them is hereby reserved to the City and every Public Utility franchise shall be subject thereto. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and public places, as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use.

SECTION 10.8 PUBLIC UTILITIES:

The City shall possess and hereby reserves to itself all the powers granted to cities by the Constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain either within or without its corporate limits, a hospital, public utilities, including but not by way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the City and its inhabitants; and also to sell and deliver water, light, heat, power, gas, and other public utilities and services, without its corporate limits to an amount not to exceed the limitations set by the State Constitution. The Council shall have the power to fix from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water, with electricity for light, heat, and power and with such other utility services as the City may provide.

SECTION 10.9 UTILITY CHARGES:

The Council shall, by ordinance, fix the rates to be charged for, and provide for the collection of all public utility charges made by the City, and for such purpose, shall have all the power granted to cities by Act 178 of the Public Acts of 1939. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the City any sums due on utility bills, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the City for the collection of the same in any Court or competent jurisdiction.