

Chapter 890
Special Assessments

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CROSS REFERENCES

Taxation generally - see CHTR. Ch. 9

Assessment roll - see CHTR. Secs. 9.5 et seq., B.R. & T.
880.05, 880.06

Special assessments generally - see CHTR. Ch. 10

Assessments for sidewalk, curb and gutter construction - see
S.U. & P.S. 1020.02, 1020.05

890.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Special Assessment Ordinance" of the Village of Caseville, Michigan.

(Ord. Unno. Passed 5-10-99.)

890.02 DEFINITIONS.

As used in this chapter:

- (a) "Cost" means and includes, when referring to the cost of any local public improvement, the cost of surveys, land, rights-of-way, services, plans, condemnation, spreading of rolls, 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 such improvement, the special assessments therefor and the financing thereof.
- (b) "Local public improvement" means any improvement upon any public property, right-of-way or easement which is of such nature as to benefit especially any real property or properties within a district in the vicinity of such improvement.

(Ord. Unno. Passed 5-10-99.)

890.03 AUTHORITY TO ASSESS.

The whole or a part of the expense of a local public improvement or repair may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner hereinafter provided. All provisions of Act 4 of the Public Acts of 1974, as amended, are incorporated herein by reference. In case of a conflict between the Act and the provisions of this chapter, the provisions of the Act, as amended, shall prevail.

(Ord. Unno. Passed 5-10-99.)

890.04 INITIATION OF SPECIAL ASSESSMENT PROJECTS GENERALLY.

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

(Ord. Unno. Passed 5-10-99.)

890.05 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 fifty-one percent of the total assessed value of the privately-owned real property located therein, as 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 fifty-one percent as aforesaid, the Clerk, or his or her designee, shall certify the same to the Council. The petition shall be addressed to the Council and filed with the Clerk, or his or her designee, and shall in no event be considered directory, but shall be considered advisory only.

(Ord. Unno. Passed 5-10-99.)

890.06 SURVEY AND REPORT.

Before the 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 list of the improvement, a description of the assessment district or districts, 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 thereof should be paid by special assessments upon the property especially benefited therefrom, and what part, if any, should be paid by the Village at large. The Council shall not finally determine to proceed with the making of any local public improvement until such 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 such improvement.

(Ord. Unno. Passed 5-10-99.)

890.07 DETERMINATION OF PROJECT; NOTICE.

After receiving the report required in Section 890.06 for making any local public improvement as requested in the resolution of the Council, and after the Council has reviewed said report, a resolution may be passed tentatively 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 especially benefited therefrom, determining the benefits to be received by the affected properties, and what part, if any, shall be paid by the Village at large; and designating the limits of the special assessment district to be affected, designating whether the costs of the improvement are to be assessed according to frontage or other benefits, placing the complete information on file in the office of the Village Clerk, where the same may be found for examination, and directing the Village Clerk, or his or her designee, to give notice of a public hearing on the proposed improvement, at which time and place opportunity will be given to interested persons

to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the Village and by first class mail addressed to each owner of, or person with an interest in, property to be assessed as shown by the general tax assessment roll of the Village. The publication of notice shall be made at least seven full days prior to the hearing and the mailing of notice shall be made at least ten full 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.

(Ord. Unno. Passed 5-10-99.)

890.08 PUBLIC HEARING; MODIFICATION; RESOLUTION TO PROCEED.

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 local public improvement in such a manner as it shall deem to be in the best interest of the Village as a whole, provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in Section 890.07. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving 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.

(Ord. Unno. Passed 5-10-99.)

890.09 CHANGE OR DEVIATION FROM PLANS AND SPECIFICATIONS.

No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the Village without authorization by Council by resolution. A copy of a resolution authorizing such change or deviation shall be certified by the Village Clerk, or his or her designee, and attached to the original plans and specifications on file in the Clerk's office.

(Ord. Unno. Passed 5-10-99.)

890.10 LIMITATIONS ON PRELIMINARY EXPENSES.

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 same shall have been made and confirmed.

(Ord. Unno. Passed 5-10-99.)

890.11 SPECIAL ASSESSMENT ROLL GENERALLY.

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.

(Ord. Unno. Passed 5-10-99.)

890.12 ASSESSOR TO FILE SPECIAL ASSESSMENT ROLL.

When the Assessor shall have completed such special assessment roll, the Assessor shall file the same with the Village Clerk, or his or her designee, for presentation to the Council for review and certification by Council.

(Ord. Unno. Passed 5-10-99.)

890.13 REVIEW OF SPECIAL ASSESSMENT ROLL; OBJECTIONS.

Upon receipt of the special assessment roll, the Council, by resolution, shall accept the special 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 direct the Village Clerk, or his or her designee, 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 seven full days prior to the date of the hearing, in a newspaper published or circulated within the Village, and by first class mail addressed to each owner of or person with an interest in property to be assessed as shown by the last general tax assessment roll of the Village, mailed at least ten full 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 this meeting, all interested persons or parties shall present, in writing, their objections, if any, to the assessments against them. The Assessor, if directed by the Council, shall be present at every meeting of the Council at which a special assessment is to be reviewed.

(Ord. Unno. Passed 5-10-99.)

890.14 CHANGES AND CORRECTIONS IN SPECIAL ASSESSMENT ROLL.

The Council shall meet at the time and place designated for the review of such special assessment roll and at such meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. 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 procedure 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 determines that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determination, confirming such roll, placing it on file in the office of the Village Clerk, and directing the Village Clerk, or his or her designee, 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 in the manner provided in Section 890.24 and subject to adjustment to conform to the actual cost of the improvement, as provided for in Section 890.20.

(Ord. Unno. Passed 5-10-99.)

890.15 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 fifty percent of the cost of an improvement, or, in the case of paving or similar improvements, the owners of more than fifty percent of the frontage to be assessed for any such improvements, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a two-thirds vote of the members-elect of the Council, provided that this section shall not apply to sidewalk construction.

(Ord. Unno. Passed 5-10-99.)

890.16 PAYMENT OF ASSESSMENTS.

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

(Ord. Unno. Passed 5-10-99.)

890.17 PARTIAL PAYMENTS; WHEN DUE.

The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed thirty 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, such installments may be spread upon and made a part of each annual Village tax roll thereafter until all are paid. Interest shall be charged on all deferred installments at a rate not to exceed seven percent per annum, or such

other rate as may be established by the Council in accordance with State statute, commencing on the due date of the first installment, or sixty 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 payment of future due installments of a special assessment against a parcel of land may be made at any time in full, with interest accrued to the due date of the next installment. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have sixty days from the date of confirmation to pay the full amount of said assessment, or the full amount of any installments thereof, without interest or penalty. Following said sixty-day period, the assessment or first installment thereof shall, if unpaid, be considered delinquent and the same penalties shall be collected on such unpaid assessments or first installments thereof as are provided by law to be collected on delinquent general Village taxes. Deferred installments shall be collected without penalty until sixty days after the due date thereof, after which time such installments shall be considered delinquent and such penalties on said installments shall be collected as are provided by law to be collected on delinquent general Village taxes. After the Council has confirmed the roll, the Village Treasurer shall notify by mail each property owner on said roll that said roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the Village Treasurer to give said notice or of such owner to receive said notice shall not invalidate any special assessment roll of the Village or any assessment thereon nor excuse the payment of interest or penalties.

(Ord. Unno. Passed 5-10-99.)

890.18 DELINQUENT SPECIAL ASSESSMENTS.

Any assessment, or part thereof, remaining unpaid on the second Monday of May following the date when the same 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 said tax roll, shall be collected in all respects as provided for the collection of Village taxes.

(Ord. Unno. Passed 5-10-99.)

890.19 CREATION OF LIEN.

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, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent Village taxes constitute a lien, or by a suit against the person.

(Ord. Unno. Passed 5-10-99.)

890.20 ADDITIONAL SPECIAL ASSESSMENTS; REFUNDS.

The Village Clerk, or his or her designee, shall, within sixty 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 five percent of the total cost, the same shall be reported to the Council, which may place the excess in the General Fund of the Village or make a refund thereof 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, prorated 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 such special assessments. In the case of assessments due in installments, the Council may order the refund given by credit against 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 said lot or parcel of land.

(Ord. Unno. Passed 5-10-99.)

890.21 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.

(Ord. Unno. Passed 5-10-99.)

890.22 ISSUANCE OF BONDS IN ANTICIPATION OF COLLECTION OF SPECIAL ASSESSMENTS.

In the event bonds are issued in anticipation of the collection of special assessments as hereinbefore provided, 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 such special assessments, and shall be used for no other purpose.

(Ord. Unno. Passed 5-10-99.)

890.23 SPECIAL ASSESSMENT ACCOUNTS.

Monies raised by special assessment to pay the cost of any local improvements 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, 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. Unno. Passed 5-10-99.)

890.24 CONTESTED ASSESSMENTS.

No action may be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

- (a) Within forty-five days after the confirmation of the special assessment roll, written notice is given to the Council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal; and
- (b) The action is commenced within ninety days after the confirmation of the roll. (Ord. Unno. Passed 5-10-99.)

890.25 REASSESSMENT FOR BENEFITS.

Whenever the Council shall deem any special assessment invalid or defective for any reason whatsoever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatsoever, in whole or in part, the Council may revoke its confirmation, correct the illegality, if possible, or reconfirm it. The 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 or not any part of the assessment has been collected. 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. Property which is not involved in the illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon. (Ord. Unno. Passed 5-10-99.)

890.26 COMBINATION OF PROJECTS.

The Council may combine several districts into one project for the purpose of effecting a saving in the costs. Separate funds and accounts shall be established for each district to cover the cost of the same. (Ord. Unno. Passed 5-10-99.)

890.27 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 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. Said apportionment shall be final and conclusive on all parties unless a protest in writing is received by the Village Treasurer within twenty days of the mailing of the aforesaid notice. (Ord. Unno. Passed 5-10-99.)

890.28 DEFERRED PAYMENTS.

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 thereof. In all such cases, as a condition to the granting of such deferred payments, the Village shall require a 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.

(Ord. Unno. Passed 5-10-99.)

890.29 RECONSIDERATION OF PETITIONS.

In the event that the Council shall fail to make any public improvement petitioned for under the provisions of Section 890.05 during the calendar year during which any petition is filed, such petition shall be reconsidered by the Council prior to the second Monday of April of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.

(Ord. Unno. Passed 5-10-99.)

890.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)