

12.130 **SPECIAL ASSESSMENT IMPROVEMENTS**
CITY OF GAYLORD, MICHIGAN

12.131 Sec. 9101. **SHORT TITLE.**

This Ordinance shall be known as the Special Assessments Improvement Ordinance of the City of Gaylord.

12.132 Sec. 9102. **DEFINITIONS.**

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

COST. The word "**cost**" shall include the expense of survey, spreading the roll, notice, advertising, printing, financing, legal, engineering, construction, condemnation and all other costs incidental to making of improvement.

LOT OR PARCEL OF LAND. Any subdivision lot or portion thereof as officially plotted or any unplatted parcel of land as may be described on any official record.

OWNER. The last recorded title holder of any lot or parcel of land, or the person whose name is last listed upon the city tax roll as the owner of a certain lot or parcel of land.

12.133 Sec. 9103. **ADVISORY PETITIONS.**

12.134 Sec. 9103.1. **GENERALLY: EFFECT.**

The City Council, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvement to be made, may request and receive a petition therefor, or may receive such petition voluntarily presented but in either event, such petition shall be advisory only and shall not be jurisdictional.

12.135 Sec. 9103.2. **CONTENTS.**

All advisory petitions shall be addressed to the City Council 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 shall be verified by the oath of one or more of the circulators of such petition before filing.

12.136 Sec. 9103.3. **FILING, ETC.**

Advisory petitions shall be filed with the City Clerk who shall check them for signatures and correctness and if found in order shall be referred to the City Manager who shall present them to the City Council at the next regular meeting or special meeting called for that purpose, together with his recommendations.

12.137 Sec. 9104. **IMPROVEMENT PROCEDURE GENERALLY.**

12.138 Sec. 9104.1. **INITIATORY RESOLUTION.**

The City Council shall, by resolution, set forth the improvement intended to be made, and direct the City Manager to prepare a report containing any information it may request concerning such improvement.

12.139 Sec. 9104.2. **PREPARATION OF PLANS AND SPECIFICATIONS.**

The City Manager shall request the engineer, if one is retained, to prepare plans and specifications of the improvement to be made, an estimate of the life of the improvement and cost thereof, and plats of the lands affected thereby.

12.140 Sec. 9104.3. **REPORT AND RECOMMENDATIONS OF CITY MANAGER.**

The City Manager shall prepare his report and include in it a schedule of all property affected by the proposed improvement, listing the assessed valuation, tax delinquencies, whether land is vacant or improved, and pertinent information on such parcels as are owned by public authorities, and such other information as the Council may have requested, and shall present it to the Council along with plans and specifications, and his recommendations as to what should be to the City, if any, the costs to the special assessment district, the number of installments in which the assessment should be spread and the lands which should be included in the special assessment district.

12.141 Sec. 9104.4. **PUBLIC HEARING - NOTICE.**

After filing of the report, plans and specifications the Council shall, by resolution, order the same filed with the City Clerk and provide for a public hearing before them on the public improvement to be made, which hearing shall be not less than ten (10) days after notice thereof has been given by first class mail to the owner of each lot or parcel of land affected thereby at his address or the address shown on the last tax roll of the City and by publication at least once in a newspaper of general circulation in the City, at least ten (10) days before the hearing.

12.142 Sec. 9104.5. **PUBLIC HEARING; CONDUCT OF SAME; OBJECTIONS.**

At the time and place specified in the notice for the public hearing, the Council shall meet and hear any person to be affected by the proposed public improvement. The hearing may be adjourned from time to time and the Council may make changes as they deem are necessary, except that if the improvements intended to be made are enlarged upon or additions made, the same shall not be done until after another hearing is held pursuant to notice as required for original hearings.

12.143 Sec. 9104.6. **RESOLUTION OF DETERMINATION.**

After the public hearing, the Council may, by resolution, determine to make the improvement and defray the whole or any part of the cost of the improvement by

special assessment upon the property especially benefited in proportion to the benefits derived, or to be derived, and designate whether it is to be assessed according to frontage or other basis. By such resolution the Council shall approve the plans and specifications for the improvements, determine the number of installments in which the assessments may be paid, determine the rate of interest to be charged on any and all installments, not to exceed eight percent per annum, designate the district or land and premises upon which special assessments shall be levied, direct the assessor to prepare a special assessment roll in accordance with the Council's determination, and also designate the name by which such assessment roll shall be known and referred to.

12.144 **Sec. 9104.7. SPECIAL ASSESSMENT ROLL - PREPARATION, ETC.**

The City Assessor shall thereupon prepare a special assessment roll, including all lots and parcels of land within the special assessment district as designated by the Council, and shall assess to each of such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the City at large.

12.145 **Sec. 9104.8. CERTIFICATE OF ASSESSOR; FILING; PRESENTATION.**

When the City Assessor shall have completed the special assessment roll referred to in the two preceding sections, he shall attach thereto, or endorse thereon, his certificate to the effect that such roll has been made by him pursuant to a resolution of the Council (giving date of adoption of resolution) and that in making the assessments therein he has, as near as may be, according to his best judgment, conformed in all respects to the directions contained in such resolution and the City Charter and the provisions of this chapter. He shall then file such special assessment roll with the City Clerk who shall present it to the Council.

12.146 **Sec. 9104.9. FILING FOR EXAMINATION BY PUBLIC; NOTICE OF HEARING FOR REVIEW.**

Upon receipt of the special assessment roll, the Council shall order it filed in the office of the City Clerk for public examination, and shall, by resolution, fix the time and place when the Council will meet and review such roll, which meeting shall be held not less than ten days after notice thereof, specifying the purpose, time and place, has been given by first class mail to the owner of each lot or parcel of land affected thereby at his address or the address shown on the last tax roll of the City, and by publication at least once in a newspaper of general circulation in the City, at least ten (10) days before hearing.

12.147 **Sec. 9104.10. WRITTEN OBJECTIONS.**

Any person deeming himself aggrieved by the special assessment roll may file his objections thereto with the City Clerk prior to the close of the hearing thereon, as

provided in this chapter, which written objections shall specify in what respect he deems himself aggrieved.

12.148 Sec. 9104.11. **HEARING FOR REVIEW.**

The Council shall meet and review the special assessment roll provided for by this chapter at the time and place appointed or at an adjourned date thereof and shall consider any written objections thereto.

12.149 Sec. 9104.12. **CORRECTIONS AND CHANGES.**

The Council may correct the special assessment roll provided for by this chapter as to any assessment or description or any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the Council minutes.

12.150 Sec. 9105. **MAXIMUM AND MINIMUM NUMBER OF INSTALLMENTS, AND COLLECTION OF LIEN.**

12.151 Sec. 9105.1. **MAXIMUM AND MINIMUM NUMBER.**

Annual installments shall not exceed thirty in number.

12.152 Sec. 9105.2. **ALL SPECIAL ASSESSMENT DUE DATES.**

All special assessments levied under the provisions of this chapter shall become due upon confirmation of the special assessment roll and if in annual installments, the Council shall determine the first installment to be due upon confirmation of the roll and deferred installment to due annually thereafter.

12.153 Sec. 9105.3. **FIRST INSTALLMENT SPREAD.**

The first installment of any special assessment shall be spread upon a special City tax roll in a column headed "Special Assessment", or upon the next annual tax roll at the direction of the Council, and if spread upon a special tax roll may be paid any time within three months from the date of the confirmation without penalties, and if unpaid on or before such three-month period, it shall be added to and made a part of the following July tax roll together with interest.

12.154 Sec. 9105.4. **ANNUAL INSTALLMENT SPREAD.**

Annual installments shall be spread thereafter on a special assessment roll or on the annual City tax roll, as may be directed by the Council, in the same manner and subject to the same provisions as provided for the first installments.

12.155 Sec. 9105.5. **NOTICE TO PAY - PUBLICATION.**

The special assessment roll shall be transmitted by the City Clerk to the City

Treasurer for collection immediately after confirmation and in the event it is not part of the annual tax roll, the City Treasurer shall give notice by publication at least once in a newspaper of general circulation that such special assessment roll has been filed in the City Treasurer's office and specifying when and where payments may be made thereon.

12.156 Sec. 9105.6. COLLECTION FEES AND PENALTIES.

After the confirmation of any special assessment roll the same collection fees shall be collected on the delinquent special assessments and upon delinquent installments of such special assessments beginning on the first day of the fourth month following the due date, as are provided by the City Charter for collection of delinquent City taxes.

12.157 Sec. 9105.7. FUNDS ON HAND; SPECIAL HANDLING.

In the event that funds are on hand or a revolving fund exists to defray the expense of any public improvement prior to the completion thereof the special assessment roll therefor may be made within sixty (60) days after the improvement is completed and shall be based upon the actual cost thereof.

12.158 Sec. 9106. REBATES, REASSESSMENTS, ADDITIONAL ASSESSMENTS.

12.159 Sec. 9106.1. CERTIFICATION OF ACTUAL COST OF IMPROVEMENT.

The City Manager shall, within sixty days after completion of each local or special improvements, compile the cost (actual) thereof and certify the same to the City Assessor who shall adjust the special assessment roll to correspond therewith.

12.160 Sec. 9106.2. ADDITIONAL ASSESSMENTS.

When any special assessment roll shall prove insufficient to pay the cost of the improvement for which it was made, the Council may make an additional pro rata assessment, according to benefits; provided, however, that if the additional assessment exceeds ten (10) percent of the original assessment, the Council shall review same at a hearing held for that purpose after notice and publication.

12.161 Sec. 9106.3. EXCESS ASSESSMENTS, REFUNDS.

Refunds of assessments larger than five percent of assessment roll shall be made to owners of property on pro rata basis or credited against unpaid special assessment balances. Excess assessments of five percent or less may be placed in the general fund.

12.162 Sec. 9107. MISCELLANEOUS PROVISIONS AND RESTRICTIONS.

12.163 Sec. 9107.1. ASSESSMENTS LIMITED TO VALUE OF BENEFITS.

The total amount assessed against any lot or parcel shall not exceed the value of the benefits received from the improvement.

12.164 Sec. 9107.2. **MONEY TO BE HELD IN SPECIAL FUND.**

Monies raised by special assessments to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay any monies borrowed therefor.

12.165 Sec. 9107.3. **USE OF FUNDS RESTRICTED.**

The funds in each special assessment account shall be used only for the improvement project for which the assessment was levied except as otherwise provided in this chapter or the City Charter.

12.166 Sec. 9107.4. **REDUCTION FOR PREPAYMENT.**

Any borrowing of money for the construction of improvements enumerated in this chapter shall be reduced in the total sum prepaid by affected property owners; provided, however, that owners prepaying their share of any special assessment shall nevertheless remain liable to pay interest attributable to their share of the special assessment if prepayment is made after the sale of any bonds or the borrowing of any monies for the construction of any improvements.

12.167 Sec. 9107.5. **PETITION AGAINST IMPROVEMENT; COUNCIL VOTE.**

Prior to the adoption of a resolution by the Council to proceed with the making of a public improvement, if written objections thereto have been filed by owners of property in the district who will be required to bear more than fifty (50) percent of the cost thereof, or by a majority of the property owners to be assessed, no such resolution can be adopted except by affirmative vote of five (5) members of the City Council.

12.168 Sec. 9107.6. **INTERGOVERNMENTAL IMPROVEMENTS.**

The City, if permitted by law, may participate in intergovernmental improvements, cost of which may be defrayed by special assessment and pursuant to the provisions of this chapter and the City Charter.

12.169 Sec. 9107.7. **SIDEWALK IMPROVEMENTS: EXEMPTION.**

The provisions of this ordinance shall not apply to sidewalk improvements which are covered elsewhere in the Gaylord Ordinance Code.

12.170 Sec. 9108. **CONTRACTUAL PROVISIONS.**

In the event that all persons or property owners to be affected by any proposed improvement or betterment to their lands agree that such improvement or such betterment be made and that a special assessment be levied in connection

therewith, the City may, in lieu of the foregoing special assessment procedures, 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 said contract.