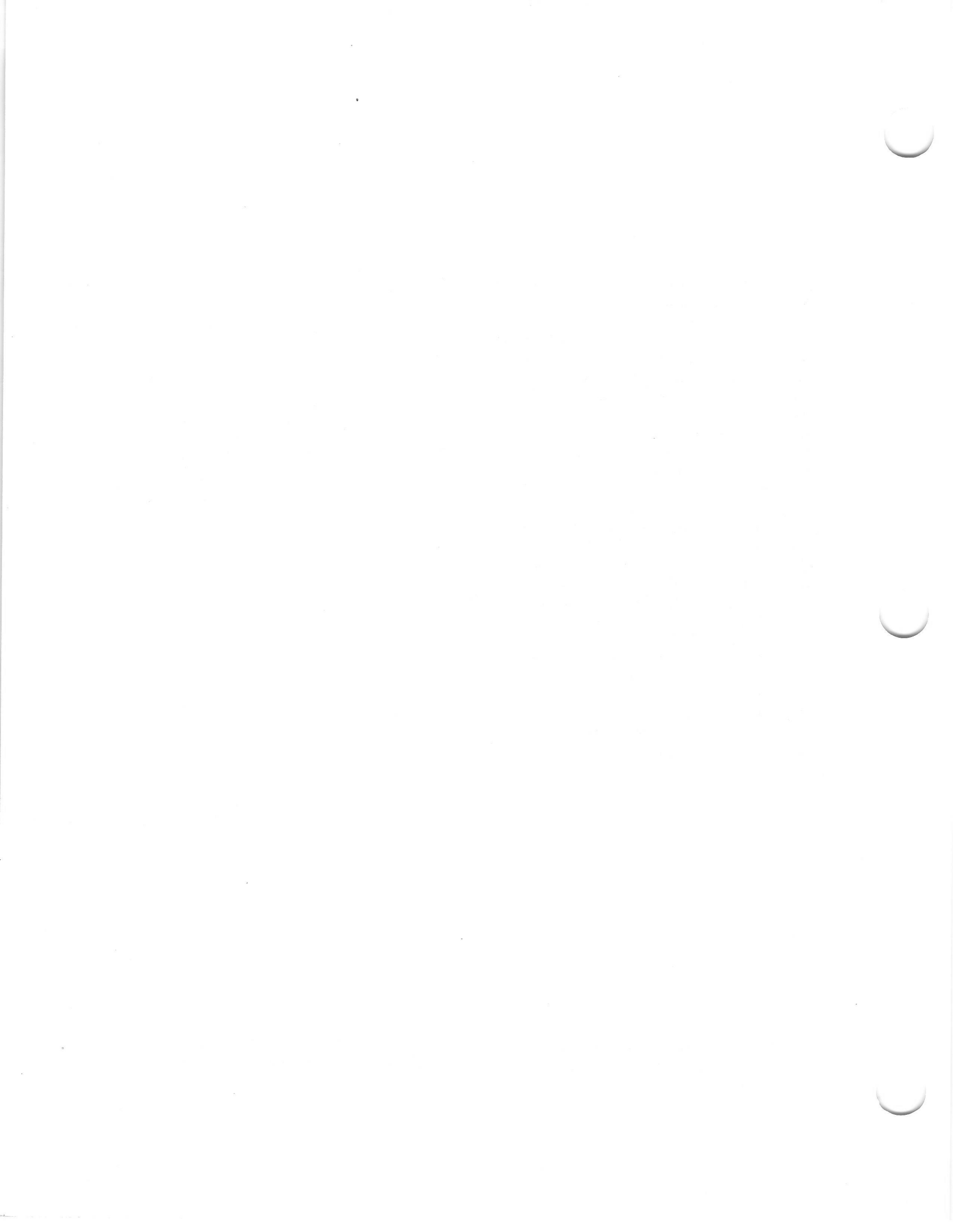


Chapter 28

SPECIAL ASSESSMENTS*

- Sec. 28-1. Definitions.
- Sec. 28-2. Authority to assess.
- Sec. 28-3. Initiation of special assessment projects.
- Sec. 28-4. Initiation by petition.
- Sec. 28-5. Survey and report.
- Sec. 28-6. Tentative determination; assessment roll.
- Sec. 28-7. Deviation from plans and specifications.
- Sec. 28-8. Limitations on preliminary expenses.
- Sec. 28-9. Special assessment roll.
- Sec. 28-10. Assessor to file assessment roll.
- Sec. 28-11. Hearing.
- Sec. 28-12. Changes or corrections to assessment roll.
- Sec. 28-13. Objection to assessment.
- Sec. 28-14. Special assessment; when due.
- Sec. 28-15. Partial payments; when due.
- Sec. 28-16. Delinquent special assessments.
- Sec. 28-17. Creation of lien.
- Sec. 28-18. Additional assessments; refunds.
- Sec. 28-19. Additional procedures.
- Sec. 28-20. Collection of special assessments.
- Sec. 28-21. Special assessment accounts.
- Sec. 28-22. Contested assessments.
- Sec. 28-23. Reassessment for benefits.
- Sec. 28-24. Combination of projects.
- Sec. 28-25. Division of parcels.
- Sec. 28-26. Deferred payments of special assessments.
- Sec. 28-27. Reconsideration of petitions.
- Sec. 28-28. Hazards and nuisances.

***State law references**—Special assessments for public improvements, MCL 68.31 et seq.; notices and hearings, MCL 211.741 et seq.; deferment of special assessments on homesteads, MCL 211.761 et seq.



Sec. 28-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost means and shall include, when referring to the cost of any local public improvement, the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, legal fees, capitalized interest, and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

Local public improvement means any 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.
(Code 1988, § 1.201)

Sec. 28-2. Authority to assess.

The whole cost or any part thereof of any local public improvement may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner hereinafter provided.
(Code 1988, § 1.202)

Sec. 28-3. Initiation of special assessment projects.

Proceedings for making local public improvements within the village, discussion of the tentative necessity thereof, and 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 are in proportion to the benefits derived from the improvements, may be commenced by resolution of the council, with or without petition.
(Code 1988, § 1.203)

Sec. 28-4. 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 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 said 51 percent, the clerk shall certify such to the council. The petition shall be addressed to the council, filed with the clerk, and shall in no event be considered directory, but advisory only.
(Code 1988, § 1.204)

Sec. 28-5. Survey and report.

Before the council shall consider making 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 life 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, what part or proportion thereof should be paid by special assessments upon the property especially benefited, and what part, if any, should be paid by the village at large. The council shall not finally determine to proceed with making any local public improvement until such report has been filed and a public hearing has been held by the council for the purpose of hearing objections to making such improvement.

(Code 1988, § 1.205)

Sec. 28-6. Tentative determination; assessment roll.

Upon receipt of the report required in section 28-5, if the council shall decide to proceed with the improvement, it shall, by resolution, order the report filed with the clerk. In addition, by the same resolution, the council shall tentatively determine the necessity of the improvement, set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, the part or portion of the cost of the public improvement to be paid by the lands specially benefited thereby, and the part or portion, if any, to be paid by the village at large for benefit to the village at large, and direct the assessor to make a special assessment roll of the part or portion of the cost to be borne by the lands specially benefited according to the benefits received and to report the same to the council.

(Code 1988, § 1.206)

Sec. 28-7. 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 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.

(Code 1988, § 1.207)

Sec. 28-8. 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.

(Code 1988, § 1.208)

Sec. 28-9. 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 proportionate amount benefited thereby. The amount spread in each case shall be based upon the detailed estimate of the cost approved by the council.

(Code 1988, § 1.209)

Sec. 28-10. Assessor to file assessment roll.

When the assessor completes such assessment roll, he shall file the same with the village clerk for presentation to the council for review and certification by it.

(Code 1988, § 1.210)

Sec. 28-11. Hearing.

(a) 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 clerk for public examination, fix the time and place it shall meet to hear objections to the improvement and review the special assessment roll, and direct the clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard.

(b) The notice shall be given by publication once at least ten 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 in interest in property to be assessed, as shown by the last general tax assessment roll of the village, mailed at least ten 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 describe the manner in which an appearance and protest shall be made. An owner, party in interest, or agent of either may appear in person at the hearing to protest the special assessment or shall be permitted to file his appearance or protest by letter, in which case his personal appearance shall not be required. The village 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.

(d) The hearing required by this section 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.

(Code 1988, § 1.211)

Sec. 28-12. Changes or corrections to assessment roll.

The council shall meet at the time and place designated for the hearing on the improvements and review of such special assessment roll and shall, at such meeting or a proper adjournment thereof, 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 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, the council may, by resolution, determine to proceed with the public improvement, determine the necessity thereof and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, and finally determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part or portion, if any, to be paid by the village at large for benefit to the village at large. If 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 citing such determinations, 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 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 chapter VIII, section 34 of Public Act No. 3 of 1895 (MCL 68.34), and subject to adjustment to conform to the actual cost of the improvement, as provided in section 28-18.

(Code 1988, § 1.212)

Sec. 28-13. Objection to assessment.

If, at or prior to the final confirmation of any special assessments, the owner 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 owner of more than 50 percent of the frontage to be assessed for any such improvement) objects in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a five-sevenths vote of the members-elect of the council. This section shall not apply to sidewalk construction.

(Code 1988, § 1.213)

Sec. 28-14. Special assessment; when due.

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.

(Code 1988, § 1.214)

Sec. 28-15. Partial payments; when due.

The council may provide for the payment of special assessments in installments. Such 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 the deferred installments shall be due annually thereafter, or, in the discretion of the council, due annually on such other date as the council may fix, or be spread upon and made a part

of each annual village tax roll thereafter until both are paid. Interest shall be charged on all deferred installments at a rate not to exceed ten percent per annum, commencing on such date on or after confirmation as may be fixed by the council and payable with each 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 thereof. If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 30 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 30-day period, the assessment or first installment thereof shall, if unpaid, be considered as 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 30 days after the due date thereof, after which time such installments shall be considered as 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. (Code 1988, § 1.215)

Sec. 28-16. Delinquent special assessments.

Any assessment or part thereof remaining unpaid on the first Monday of March 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. (Code 1988, § 1.216)

Sec. 28-17. 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. 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.

(Code 1988, § 1.217)

Sec. 28-18. Additional assessments; refunds.

The clerk shall, within 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. Should the assessment prove larger than necessary by less than five percent, the same shall be reported to the council, which may place the excess in the village treasury 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, 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 in 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 said lot or parcel of land.

(Code 1988, § 1.218)

Sec. 28-19. 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.

(Code 1988, § 1.219)

Sec. 28-20. Collection of special assessments.

In the event bonds are issued in anticipation of the collection of special assessments as provided in this chapter, 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.

(Code 1988, § 1.220)

Sec. 28-21. Special assessment accounts.

Moneys raised by a 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 may 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 be authorized.

(Code 1988, § 1.221)

Sec. 28-22. Contested assessments.

If a special assessment is made against property, the notice of the special assessment sent to the property owner or person responsible for payment of the ad valorem property taxes under the General Property Tax Act, Public Act No. 206 of 1893 (MCL 211.1 et seq.), shall include, in addition to any other requirements by state

law, 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.
(Code 1988, § 1.222)

Sec. 28-23. 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 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 completed 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 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.
(Code 1988, § 1.223)

Sec. 28-24. Combination of projects.

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.
(Code 1988, § 1.224)

Sec. 28-25. 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 amount 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 protest, in writing, is received by the village treasurer within 20 days of the mailing of the aforesaid notice.
(Code 1988, § 1.225)

Sec. 28-26. Deferred payments of special assessments.

The council may provide for the deferred payment of special assessments from persons who, in the opinion of the council and 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 death, or, in any event, on the sale or transfer of the property. The procedure for granting a deferment shall be as set out in Public Act No. 225 of 1976 (MCL 211.761).
(Code 1988, § 1.226)

Sec. 28-27. Reconsideration of petitions.

In the event the council fails to make any public improvement petitioned for under the provision of section 28-4, during the calendar year during which any petition is filed, such petition shall be reconsidered by the council prior to March 1 of the succeeding calendar year for the purpose of determining whether such improvement should be made during such calendar year.
(Code 1988, § 1.227)

Sec. 28-28. Hazards and nuisances.

When any lot, building or structure within the village, because of the accumulation of refuse or debris, uncontrolled growing of weeds, age, dilapidation, or any other condition or happening, becomes, in the opinion of the council, a public hazard or nuisance which is dangerous to the health or safety of the inhabitants of the village or those of them residing or habitually going near such lot, building or structure, the 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 to alter, repair, tear down, or remove such hazard or nuisance promptly and within a time to be specified by the council, which shall be commensurate with the nature of the hazard or nuisance. If, at the expiration of the time limit in such notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the council may order such a hazard or nuisance abated by the proper department or agency of the village which is qualified to do the work required. The costs of such abatement shall be assessed against the lot, premises or description of real property upon which said hazard or nuisance was located.
(Code 1988, § 1.228)

Chapter 29

RESERVED

