

ORDINANCE NUMBER THIRTY-SEVEN

AN ORDINANCE RELATING TO SPECIAL ASSESSMENT PROCEDURE
FOR THE CITY OF CARSON CITY

THE CITY OF CARSON CITY ORDAINS:

SECTION I. ENABLING POWERS.

The City Council of the City of Carson City shall have the power to make the hereinafter named public improvements and to determine that the whole or any part of the cost shall be defrayed by Special Assessments against the property especially benefited thereby. The cost of engineering services, all expenses incident to the proceedings for making the improvement and the financing thereof and not to exceed one year's interest on bonds to be issued hereunder shall be deemed a part of the cost of the improvement.

SECTION II. PROCEDURE FOR ASSESSMENT.

The City Council shall set forth the basis of the Special Assessment on either front footage, total land area, or benefit basis, as the Council may determine to be the most equitable to the greater number of property owners concerned.

SECTION III. IMPROVEMENTS WHICH MAY BE MADE.

The improvements which may be made under this Ordinance are:

- a. The construction and maintenance of sewers and under-drains.
- b. The construction and maintenance of water mains.
- c. The improvement of public highways by grading, graveling, paving, curbing or draining the same, or constructing driveway approaches or sidewalks thereon in connection therewith.
- d. The maintenance and improvement of parks or the trimming and spraying of trees.
- e. The installation of elevated structures for foot travel over highways.
- f. The collection of garbage and rubbish.
- g. The demolition or repairs to a dwelling or structure deemed unsafe to the public.
- h. The construction, establishment and extention of facilities for the storage and parking of vehicles within the city limits.

(Ordinance Number Thirty-Seven Cont'd)

SECTION III Continued.

i. The installation of a boulevard lighting system on any street.

j. Any other improvements permitted to be made by the City Charter of the City of Carson City or the laws of the State of Michigan, but excepting herefrom the assessment for the cost of construction or maintenance of sidewalks or the abatement of any hazzard or nuisance, as set forth in Section 11.9 of the City Charter of the City of Carson City, and excepting herefrom any assessments on single lots, as set forth in Section 11.10 of the City Charter of the City of Carson City.

SECTION IV. PETITIONS AND COUNCIL INITIATIVE.

Improvements may be initiated by petition of the owners of record of lands constituting fifty-one percent (51%) of the frontage in case of highway or water main improvements, and fifty-one percent (51%) of the land area for sewer or under-drain improvements. The City Council may initiate Special Assessment Districts by resolution of the City Council without petition of the owners of record, but if the owners of property in the district, as defined in Section 11.2 of the City Charter of the City of Carson City, which, according to the estimates, will be required to bear more than fifty percent (50%) of the amount of the Special Assessment object in writing to the improvement at or before the first public hearing, then the Council shall not proceed with the improvement unless there shall be five (5) votes of the City Council voting in favor of such improvement. Record owners of land shall be determined as of the records of the Tax Assessment Rolls of the City of Carson City on the day of filing the petition, or on the day the City Council shall first initiate the improvement. In determining the sufficiency of the petition, lands not subject to Special Assessment and lands within the public streets and alleys shall not be included in computing frontage for assessment district area. Any filed petitions may be supplemented by the filing of additional signatures, and in such case, the validity thereof shall be determined by the records of the Tax Assessment Roll of the City of Carson City on the date of filing the supplemental petition. The provisions for objection shall not apply to the Special Assessments, as set forth in the subsection "g" of Section III above.

SECTION V. CITY PARTICIPATION.

The City Council may pay up to one-third (1/3) of the cost of the Special Assessment or such equitable formula as may be agreed by the Council for platted corner lots or for lots on a curve of a street for the payment of public improvements assessed on a front footage basis.

(Ordinance Number Thirty-Seven Cont'd)

SECTION VI. PROCEDURAL FORMS.

6.1. Upon the receipt of a petition or upon the initiative of the City Council, if it desires to proceed without petition, there shall be a first resolution passed by the City Council which shall cause plans and cost estimates to be prepared showing the improvement, the location and the proposed boundaries of the Special Assessment District. In the case of projects for water, sewer or highways the same shall be prepared by a Registered Engineer.

6.2. As soon as the plans, cost estimates and boundaries are prepared, they shall be presented to the City Council and if it desires to proceed further with the improvement, it shall make the second resolution tentatively declaring its intention to make such improvement and tentatively designating the Special Assessment District against which the cost of said improvement is to be assessed. Such resolution shall further set the time and place, when and where the Council will publicly meet to hear objections to the improvement and to the Special Assessment District to consider the advisability of procedure, and such resolution shall further instruct the City Comptroller to cause notice of such hearing to be published at least twice in a newspaper circulated in the City of Carson City, the first publication of which shall be at least ten (10) days prior to the time of the hearing, and the City Comptroller shall notify the property owners according to the City Tax Rolls by the first class mail of such hearing. The notice shall state what the plans and cost estimates are on file with the City Comptroller for examination and shall contain a brief description of the proposed Special Assessment District.

6.3. The City Council shall hold a public hearing, which hearing may be adjourned, and shall hear any objections to the petition, the Council initiative, the improvement, and to the Special Assessment District, and may revise, correct, amend or change the plans, estimated cost and/or Special Assessment District, provided that no property shall be added to the District nor any increase in the estimate of cost in excess of ten percent (10%) above the original estimated cost unless notice is given as originally given for the hearing or by personal service on the owners of the property in the entire proposed Special Assessment District and a hearing afforded to such owners.

6.4. After the public hearing provided for in subsection 6.3 above, if the Council then desires to proceed with the improvement it shall proceed with resolution No. 3, indicating its determination to make the improvement, approve the plans, approve the estimate of cost, approve any revisions, corrections, amendments or changes, and shall also determine the prior sufficiency of the petition or the original initiative of the improvement. After such determination the sufficiency of the petition or the initiative shall not thereafter be subject to attack except in an action brought in a Court of competent jurisdiction within thirty (30) days after the adoption of resolution No. 3 determining such sufficiency. The resolution shall in addition provide for the

(Ordinance Number Thirty-Seven Cont'd)

SECTION VI. Continued

final determination of the Special Assessment District and shall direct the Assessor to make the Special Assessment Roll in which shall be entered and described all the parcels of land to be Assessed, with the names of the respective owners thereof, if known, and the total amount to be assessed against each parcel of land, which amount shall be such relative portion of the whole sum to be levied against all parcels of land in the Special Assessment District as the benefit to such parcel of land bears to the total benefit of all parcels of land in the Special Assessment District. When the Assessor shall have completed his Assessment Roll he shall affix thereto his certificate stating that it was made pursuant to the resolution of the City Council adopted on a specified date and that in making such Special Assessment Roll he has, according to his best judgment, conformed in all respects to the directions contained in such resolution, this Ordinance and the statutes of the State of Michigan.

6.5. The City Council shall proceed to advertise and take bids for the project, provided that, if bids exceed the Special Assessment estimates by ten percent (10%), then a further hearing and notice, as required above, shall be held before proceeding. At such further hearing objections may be had with the same procedures, as above set forth.

6.6. When such Special Assessment Roll shall be reported by the Assessor to the City Council the same shall be filed in the office of the City Comptroller. Before confirming the Assessment Roll the City Council shall appoint a time and place where it will meet publicly and review the same and hear objections thereto and shall cause notice of such hearing and filing of such Assessment Roll to be published twice prior to such hearing in a newspaper circulated in the City of Carson City, the first publication to be at least ten (10) days before such hearing, and the City Comptroller shall further give notice by first class mail to the property owners of record of the time and place of such hearing. The City Council shall revise the amount to be spread on the Assessment Roll in accordance with the actual contract bids and such additional costs as shall be computed in the total project. Such resolution will be known as resolution No. 4 in the Special Assessment Procedure.

6.7 After the hearing set forth in subparagraph 6.6 and after the Special Assessment Roll has been spread on the actual costs the final spread of the Roll shall be reviewed by the City Council who shall then confirm the Special Assessment Roll as reported to it by the Assessor, or as amended or corrected by it, or may refer it back to the Assessor for further revision, or may annul it and direct a new roll to be made; such action to be taken by resolution No. 5. When the Special Assessment Roll has been confirmed the City Comptroller shall endorse thereon the date of confirmation. After confirmation the Special Assessment Roll and all assessments thereon shall be final and conclusive

(Ordinance Number Thirty-Seven Cont'd)

SECTION VI. 6.7 Continued

unless within thirty (30) days after the confirmation of the Special Assessment Roll written notices stating the grounds on which it is claimed the assessment is illegal is given to the City Council of intention to file a suit or action of any kind for the purpose of contesting or enjoining the collection of any Special Assessment and unless such suit or action shall be commenced within sixty (60) days after confirmation of the roll. Resolution No. 5 may provide that the assessments shall be payable in one or more approximately equal annual installments not exceeding ten. The first installment of a Special Assessment shall be due on confirmation of the Special Assessment Roll by the City Council and the several subsequent installments shall be due on July first of each succeeding year. All unpaid installments prior to their transfer to the City Tax Roll, as hereinafter provided, shall draw interest at the rate of six percent (6%) per annum commencing ninety (90) days after said Assessment Roll shall be confirmed, as set forth in this paragraph.

6.8. Future due installments of any assessment against any parcel of land may be paid to the City Comptroller at any time in full, with interest accrued to the due date of the next installment. If any installment of a Special Assessment is not paid when due, then the same shall be deemed to be delinquent and there shall be collected thereon, in addition to the interest as above provided, a penalty at the rate of one-half (1/2) of one percent (1%) for each month or fraction thereof that the same remains unpaid before being reported to the City Council for reassessment on the City Tax Roll.

SECTION VII. LIEN ON PROPERTY.

All Special Assessments contained in the Special Assessment Roll, including any part thereof deferred as to payment, shall from the date of confirmation of the Roll become a debt to the City of Carson City from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the amount of such assessment and all interest charges thereon. This lien shall be of the same character and effect as a lien created for City taxes by the City Charter of the City of Carson City and shall include accrued interest and penalties. No judgment or decree or any act of the City Council vacating a Special Assessment shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or which by regular mode of proceeding might be lawfully assessed thereon.

SECTION VIII. COLLECTION OF ASSESSMENTS.

When any Special Assessment Roll shall be confirmed the City Council shall direct the assessments made therein to be collected. The City Comptroller shall thereupon attach his warrant commanding the collection of the assessments therein in accordance with the directions of the City Council in respect thereto. Such warrant shall further require the City Comptroller on the first day of

(Ordinance Number Thirty-Seven Cont'd)

SECTION VIII Continued

March following the date when any such assessment or any part thereof would have become due, to submit to the City Council a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments and the amount of such delinquency, including accrued interest and penalties computed to March first of such year. Upon receiving such Special Assessment Roll and warrant the City Comptroller shall proceed to collect the several amounts assessed therein as required by Section 11.7 of the City Charter of the City of Carson City.

SECTION VIII. REASSESSMENT OF DELINQUENT ASSESSMENTS.

In case the City Comptroller shall, as above provided, report as delinquent any assessment or part thereof, the City Council shall certify the same to the Assessor who shall reassess on the annual City Tax Roll of such year in a column headed "Special Assessments" the sum so delinquent, with interest and penalty to March first of such year, and an additional penalty of six percent (6%) of the total amount. Thereafter Section 11.7 of the City Charter of the City of Carson City and the statutes relating to City taxes shall be applicable to such reassessments.

SECTION X. DIVISION OF SPECIALLY ASSESSED PROPERTY.

Should any parcel of land be divided after a Special Assessment thereon has been confirmed and before collection thereof, the City Council may require the Assessor to apportion the uncollected amounts between the several divisions thereof and a report of such apportionment, when confirmed by the City Council, shall be conclusive upon all parties.

SECTION XI. ASSESSMENTS INSUFFICIENT OR MORE THAN SUFFICIENT TO PAY FOR IMPROVEMENT.

Should the assessments in any Special Assessment Roll prove insufficient for any reason, including the noncollection thereof, to pay for improvement for which they were made, or to pay for the principal and interest on the bonds issued in anticipation of the collection thereof, then the City Council shall make additional prorata assessments to supply the deficiency, but the total amount so assessed against any parcel of land shall not exceed twenty-five percent (25%) of the assessment as originally confirmed unless a public meeting of the City Council be held to review such additional assessment, for which meeting notices shall be published and mailed as required in subsection 6.6 above. Should the assessment prove larger than necessary by more than five percent (5%), the entire excess shall be refunded on a pro-rata basis to the owners of the property assessed. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessments. Should the total amount collected on assessments prove larger than necessary

(Ordinance Number Thirty-Seven Cont'd)

SECTION XI Continued

by more than five percent (5%) of the original Roll, then the entire surplus shall be pro-rated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next City tax levied against such properties respectively. Any surplus of five percent (5%) or less may be placed in the City General Fund.

SECTION XII. INVALIDITY OF ASSESSMENT, NEW ASSESSMENTS.

Whenever any Special Assessments shall in the opinion of the City Council be invalid by reason of irregularities or informalities in the proceedings or, if any court of competent jurisdiction shall adjudge such assessment to be illegal, the City Council shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purposes for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment and whenever a sum or any part thereof levied upon any property in the Assessment so set aside has been paid and not refunded, the payment so made shall be applied against the reassessment or, if the payments exceed the amount of the reassessment, refunds shall be made. Any failure to give notice as required in this Ordinance shall not invalidate an entire Assessment Roll but only the assessment on the property affected by the lack of notice, provided that in no case shall any special assessment be declared invalid as to any property thereof which has actually received notice, has waived notice or has paid any part of the assessment.

SECTION XIII. AGREEMENT OF EXEMPT CORPORATION TO PAY SPECIAL ASSESSMENTS.

The governing body of any public or private corporation whose lands are exempt by law may by resolution agree to pay the Special Assessment against such lands and in such case the assessment, including all installments thereof, shall be a valid claim against such corporation. The assessment may also be a lien against the lands so covered and such lien may be enforced in accordance with the General Laws of the State of Michigan.

SECTION XIV. ISSUANCE OF BONDS IN ANTICIPATION OF COLLECTION OF ASSESSMENTS.

The City Council may borrow money and issue the bonds of the City therefor in anticipation of the collection of Special Assessments to defray the cost of any improvement made under this Ordinance after the Special Assessment Roll thereof shall have been confirmed. Such bonds shall not exceed the amount of the Special Assessments in anticipation of collection of which they are issued and shall bear interest at a rate not exceeding six percent (6%) per annum. Collections on Special Assessments to the extent that the same are pledged for payment of such bonds shall be set aside in a special fund for the payment of such bonds. The issuance of Special Assessment bonds

(Ordinance Number Thirty-Seven Cont'd)

SECTION XIV Continued

shall be governed by the provisions of the General Laws of the State of Michigan. Bonds may be issued in anticipation of the collection of Special Assessments levied in respect to two or more public improvements but no Special Assessment District shall be compelled to pay the obligation of any other Special Assessment District. The City Council may pledge the full faith and credit of the City for the prompt payment of the principal of and interest on bonds authorized herein, as the same shall become due. Bonds issued hereunder shall be executed by the Mayor and City Comptroller and interest coupons to be attached thereto shall be executed by them causing their facsimile signatures to be affixed thereto.

SECTION XV. ALTERNATE METHOD OF DEFRAYING COST OF IMPROVEMENT.

The City Council, as an alternate method of defraying the cost of any improvement made under this Ordinance after the Special Assessment Roll shall have been confirmed, may pay the cost of improvements from the City Improvement Revolving Fund.

SECTION XVI. 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 costs of the improvement for which the assessment was levied and of expenses incidental thereto, to repay any principal or interest on money borrowed therefor, and to refund excessive assessments.

SECTION XVII. POWERS DEFINED.

This provision for Special Assessments shall be in addition to any other powers granted to the City of Carson City by its charter and any other statutes of the State of Michigan.

SECTION XVIII. SEVERABILITY.

That should any part of this Ordinance be held invalid by a court of competent jurisdiction, the remaining parts shall be severable and shall continue to be in full force and effect.

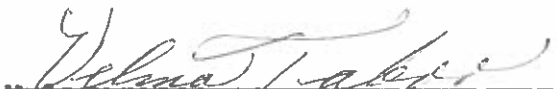
SECTION XVIII. CONFLICTING ORDINANCES.

That all ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

SECTION XX. EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after the 26th day of February, 1971.

Passed and approved by the City Council of the City of Carson City on the 16th day of February, 1971.


Velma Tabor, Comptroller


Paul Geller, Mayor