

Chapter 8B

SEWER ASSESSMENT DISTRICTS

8B.1. Purpose.

This Chapter establishes the procedure to be followed in the creation of special Assessment Districts for purposes of sewer construction projects which may benefit particular properties within the City, which benefit may not be common to the public in general. The purpose of such Districts is to insure that the lands specially benefitted from a proposed sewer construction project pay their just share of the expense of constructing and maintaining the same, including the payment of any capital debt or interest incurred by the City in constructing and/or maintaining the same, pursuant to RSA 149-I:7.

The procedures herein set forth shall apply to determine:

- (A) Whether any proposed sewer construction project will specially benefit particular properties;
- (B) Whether any proposed sewer construction project is necessary;
- (C) If so, whether the properties specially benefitted should be specially assessed for the purpose of funding the cost of the sewer project construction and/or maintenance; and
- (D) The method for determining the equitable distribution of the assessment.

8B.2. Definitions.

(A) "Special Sewer Assessment" is an assessment imposed upon real property and the owners thereof for the purpose of paying the cost of construction and/or maintenance, including capital debt and interest thereon, incurred or to be incurred with regard to the extension of City sewer to an area of the City, which extension specially affects and benefits such real property. The amount of the assessment shall be determined with reference to the benefit a specific property and the owner thereof shall derive from the sewer construction project.

(B) "Sewer Assessment District" is the land and premises specially benefitted by any proposed sewer construction project, the specific parameters of such District to be determined by resolution of the City Council.

(C) "Sewer Construction Project" is the extension of City sewer services to an area not previously serviced by City sewer, which extension requires the acquisition of property

and/or easements over property, engineering and laying of mains.

(D) "Cost" shall include all amounts expended by the City, directly or indirectly, relating to the sewer construction project, including but not limited to, the costs of land acquisition, easement rights, contract labor, legal fees, administration expenses, engineering and materials.

8B.3. Initiating Project.

A sewer construction project may be proposed by the City Council on its own initiative or by written petition to the Council from owners of any property that will be benefitted by such a project. In either case, if a majority of the members of the City Council determine that such proposed project would be in the interests of the City and would specially benefit particular properties, the City Council shall direct the City Manager to:

- (A) Prepare an engineering report on the proposed sewer construction project and submit a written report to the Council; and
- (B) Establish a time by which the report shall be returned to the City Council.

8B.4. Engineering Report.

Unless the Council directs otherwise, the engineering report shall contain, but not be limited to, the following:

- (A) A map or plat showing the location and extent of the proposed sewer construction project and the land to be assessed for payment of the cost;
- (B) Plans, specifications and estimates of work to be done. If the proposed project is to be carried out in cooperation with another governmental agency, the engineering report may adopt plans, specifications and estimates of that agency;
- (C) An estimate of probable cost of the project, including legal, administrative and engineering costs;
- (D) An estimate of the unit cost of the project to be assessed to the benefitted properties, per square foot, per front foot, or any other appropriate unit of cost;
- (E) A recommendation concerning portion of cost to be assessed to benefitting properties and the method of assessment to be used to arrive at a fair apportionment of the whole or a portion of the cost of the project to the benefitted properties; and
- (F) A special assessment roll describing each lot, par-

cel of land, or portion of land to be benefitted, with names of the record owners and addresses, and the proportion of cost to be assigned to each lot or parcel.

8B.5. Action on Engineering Report.

Upon receipt of the engineering report the Council may approve the report, modify the report and approve it as modified, or require that additional or different information for the project be supplied. The Council may also abandon any project it initiated.

8B.6. Schedule and Notice of Hearing.

If the City Council approves the engineering report as submitted or as modified, the City Council shall schedule a public hearing. The City Manager shall cause copies of the engineering report to be made available for public inspection at the Office of the City Clerk for no less than five (5) working days prior to the date scheduled for the public hearing.

(A) The City Clerk shall give notice of the date on which the public hearing shall be held, which shall be at least ten (10) calendar days after the City Council has approved the engineering report, in the following manner:

- (1) By publication in a newspaper of general circulation in the City;
- (2) By posting in at least two places open to the public; and
- (3) By mailing, first-class postage prepaid, written notification to all owners of property in the immediate area of the proposed project.

(B) The notice shall contain the following information:

- (1) That the engineering report is on file in the Office of the City Clerk and is subject to public examination;
- (2) That the Council shall hold a public hearing on the proposed project on a specified date; and
- (3) A description of the property to be benefitted by the project, a list of owners of record thereof and the engineering estimate of the total cost of the project to be paid by special assessments to the benefitted properties.

8B.7. Hearing

On the scheduled date, a public hearing will be held to consider:

- (A) Whether there exists a need for the proposed project;

(B) Whether the proposed project would specially benefit properties in the immediate area of the proposed project;

(C) Whether the costs of such project should be defrayed in whole or in part by special assessments; and

(D) The specific method for determining the equitable distribution of the assessment.

8B.8. Conduct of Hearing.

The Mayor shall preside at the public hearing. The City Council shall receive such information and comments from the public as may be related to the need for the proposed project, the engineering report and the establishment of a special Assessment District to defray the estimated cost of the project. The Council shall review the engineering report and any information submitted by the public.

8B.9. Resolution by Council.

(A) At the next regularly scheduled City Council meeting following the public hearing, the City Council shall review the preliminary plans, the cost estimates, and the proposed benefit to the property in the immediate area of the proposed project. Upon vote of two-thirds of the members present, the Council shall either approve or disapprove the proposed project. If the Council shall approve the same, it shall then determine, by two-thirds vote of the members present, whether the costs of such improvement shall be defrayed by special assessment, and if so, what proportion of the cost thereof shall be paid by special assessments, and what part, if any, shall be a general obligation of the City.

(B) If the Council shall determine that all or a portion of the cost of the project shall be paid by special assessment, then the Council, by ordinance, shall adopt a specific method of apportioning that cost among the properties specially benefitted. In adopting such method, the Council may:

(1) Use any just and reasonable method to determine the extent of an Assessment District consistent with the benefits derived;

(2) Use any just and reasonable method to apportion the sum to be assessed among the benefitted properties;

(3) Authorize payment by the City of all or part of the cost of the project when, in the opinion of the Council, the topographical or physical conditions or other character of the work warrants only partial payment or no payment of the cost by owners of benefitted properties.

(C) If the Council determines that the whole or

any part of the project cost shall be specially assessed against the benefitted properties, then it may also grant a complete or partial exemption to those properties from the terms of any other Ordinance which requires the payment of sewer access fees, stating in its exemption the specific provisions of the Ordinance for which the exemption is being granted.

(D) Nothing contained herein shall preclude the Council from using other means of financing the project, including federal and state grants-in-aid, revenue bonds, general obligation bonds, or other legal means of finance. In such case, the Council may levy special assessments according to benefits derived to cover such costs as are required to pay for the project.

8B.10. Assessment Ordinance.

(A) If the Council determines that the City should undertake the sewer project, then when the estimated cost is determined on the basis of a contract award or City departmental cost or after the project is complete and the cost has been actually determined, the tax assessor or other person designated by the Council shall prepare the proposed assessment in accordance with the method adopted by Council and shall file the assessments with the office of the tax collector.

(B) Notice of the proposed assessment shall be mailed to the record owner of each lot to be assessed. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections to the assessment shall be registered with the City Council. An objection shall state the grounds for the objection.

(C) The City Council shall hold a public hearing, with notice and publication as required by law, to consider the objections received. At that hearing, Council may adopt, correct, modify or revise the proposed assessment against each lot in the district according to the special benefits accruing to it from the sewer project. Council shall then, at its next regularly scheduled meeting, adopt the Assessment Ordinance.

8B.11. Notice of Assessment.

(A) Within ten (10) days after adoption of the ordinance levying the assessments, the tax collector shall send a notice of assessment to each owner of assessed property in the District, in the same manner as tax bills are sent.

(B) The notice of assessment shall state the name of the property owner, a description of the assessed property (which may be by reference to the tax map and lot number as

recorded in the Tax Assessors records), the amount of the assessment, the date payment is due, and the date that interest will begin to run on the assessment along with the applicable interest rate, which shall be established by City Council.

8B.12. Collection.

(A) All amounts specially assessed pursuant to this Chapter shall create a lien upon the real property on account of which the assessment is made. The city shall use the same procedures for collection of the assessed amount as are authorized by RSA 38:22.

(B) Upon application of the owner of a single-family or duplex residential structure in the District, the City will accept a lien on the property in lieu of payment in full of the assessed amount. In such case, the assessment may be paid in annual installments over a period not to exceed twenty (20) years. The City Council shall determine the terms of payment, including the rate and method of charging interest thereon. Payment of the installments will be billed and collected with real property taxes assessed under the provisions of RSA 76.

8B.13. Abatement.

Any owner of record of property within the District may apply to the City Council for the abatement of the assessment at any time after receipt of the notice of assessment. If the City Council determines that an error in the assessment was made, they shall correct the same by making an abatement and determining a new assessment. The Council may also abate any assessment for such other good cause as may be shown.

Any party aggrieved by the Council's neglect or refusal to correct an error in the assessment may, within ninety (90) days after notice of the assessment, petition the Superior Court for relief pursuant to RSA 149-I:15.

8B.14. Supplemental Assessments.

If an assessment is made before the total cost of the project is finally determined, and if the amount of the assessment is insufficient to defray the cost of the project, the City Council may by resolution declare the insufficiency and prepare a proposed supplemental assessment. The Council shall set a time for public hearing at which it shall consider objections to the supplemental assessment and shall require the City Clerk to post and publish notice of such hearing in the manner set forth in Section 6.

At the next regularly scheduled meeting of the Council, the Council shall make a just and equitable supplemental assessment by ordinance. Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, as provided in Sections 11 and 12.

8B.15. Rebates.

On completion of the sewer project, if the assessment previously levied is found to be in excess of the cost of the project, City Council shall determine the excess and declare it by ordinance, which ordinance shall also determine the manner of allocating such excess to the properties within the District. The excess amount shall then be rebated to the then owner of the property on account of which the assessment was collected.

If the Council determines to abandon a sewer project before final completion, then any liens asserted against properties within the District shall be discharged and payments made on assessments shall be refunded to the persons who paid them.

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