

CITY OF AUGRES

ORDINANCE No. 71
FOR
SPECIAL ASSESSMENTS

An Ordinance to establish special assessment procedure to be used, by the City of AuGres, when special assessments may be levied, the kinds of local public improvements for which a hearing is required on the resolution levying the special assessments; the preparing of plans and specifications; estimated costs; the preparation, hearing and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessment method.

(1) Power to Make Special Assessments. The City Council shall have the power to assess and reassess the cost, or any portion thereof, of any public improvement to a special district as provided in Chapter 104A of the City Charter, in accordance with the procedures established by the Charter and this Chapter.

(2) Resolution, What to Contain. When the Council shall determine to make any public improvement and defray the whole or any part of the costs and expenses thereof by special assessment, they shall so declare by resolution, stating the improvement and what part or proportion of the expenses thereof shall be paid by special assessments, and what part, if any, from the general funds of the City and shall designate the district or land and premises upon which the special assessment shall be levied. The Council may, in its discretion divide any improvement into parts or sections and provide for the separate construction of such parts of sections, and may establish a special assessment district for each part of section, and may issue bonds against such separate districts.

(3) Cost Estimates and Notice of Hearing. Before ordering any public improvement, any part of the expense of which is to be defrayed by special assessment, the Council shall cause estimates of the expenses thereof to be made and also maps and plans when practicable of the work and of the locality to be improved and deposit the same with the Clerk for public examination; and they shall cause a notice of the proposed improvement and the district to be assessed to be given to each owner of an interest in property assessed whose name appears on the last local tax assessment records by first-class mail addressed to such owner at the address shown on the tax records at least ten (10) days before the date of such hearing, and they shall give notice thereof and of the proposed improvement or work and of the district to be assessed by publication once (1) at least five (5) days prior to such hearing in a newspaper of general circulation in the City to be designated by the Council and of the time and place when the Council will meet and consider any objections thereto.

(4) Cost to Include What. The cost and expenses of any improvement which may be defrayed by special assessment shall include the costs of surveys, plans, assessments, cost of construction, and all other costs incurred in making the improvement.

(5) Special Assessment Procedure. When any special assessment is to be made pro rata upon the lots and premises in any special district according to frontage or benefits, the Council shall by resolution direct the same to be made by the City Assessor;

and shall state therein the amount to be assessed and whether according to frontage or benefits; and describe or designate the lots and premises or locality constituting the district to be assessed.

(6) Preparation of Assessment Roll. Upon receiving such orders and direction, the City Assessor shall make out an assessment roll, entering and describing therein all the lots, premises, and parcels of land to be assessed with the name of the persons, if known, chargeable with the assessments thereon; and shall levy thereon and against such property the amounts to be assessed in the manner directed by the Council and provisions of this ordinance applicable to the assessment. In all cases where the ownership of any description is unknown to the City Assessor, he shall in lieu of the name of the owner insert the word "unknown" and if by mistake, or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land or premises, or if the same shall be assessed without the name of the owner or if the name of any person other than the owner, such assessment shall not for any cause be vitiated, but shall in all respects be as valid upon and against such lot, parcel of land, or premises as though assessed in the name of the property owner, and when the assessment shall have been confirmed it shall be a lien on such lot, parcel of land, or premises, and collected as provided by Charter and this ordinance.

(7) Certification of Assessment Roll. If the assessment is required to be according to frontage, the City Assessor shall assess to each lot or parcel of land such relative portion of the

whole amount to be levied as the length or front of such premises abutting upon the improvement bears to the whole frontage of all lots to be assessed, unless on account of the shape or size of any lot an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits, then he shall assess upon each lot such relative proportion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot from the improvement. When he shall report the same to the Council; such report shall be signed by the City Assessor and may be in the form of a certificate endorsed on the assessment roll as follows:

State of Michigan)
) ss.
County of Arenac)

To the Council of the City of Au Gres:

I hereby certify and report that the foregoing is a special assessment made by me pursuant to a resolution of the Council of said City adopted (give date) for the purpose of paying that part of the cost which the Council decided should be borne and paid by special assessment for the (insert here object of the assessment); that in making such assessment, I have as near as may be, according to my best judgment, conformed in all things to the directions contained in the resolution of the Council hereinbefore referred to and the Charter of the City relating to such assessment.

Dated and Signed

City Assessor

(8) Notice of Special Assessment. When any special assessment roll shall be reported by the City Assessor to the Council, as in this ordinance directed, the same shall be filed in the office of the Clerk and numbered consecutively. Before confirming

the assessment roll, the Council shall set a date for the review of the same and shall cause a notice to be given to each owner of an interest in property to be assessed whose name appears upon the last local tax assessment records by first class-mail addressed to such owner at the address shown on the tax records at least ten (10) days before the date of such hearing and shall cause a notice to be published once (1) not less than five (5) days prior to the date set for such review in a newspaper of general circulation in the City to be designated by the Council, which notice shall set forth the fact of the filing of the assessment roll with the City Clerk, the time when the Council and City Assessor will meet to review the assessment roll, and a description of the lots, premises, and parcels of land assessed. Any person objecting to the assessment against lands owned by him may file objections thereto in writing with the Clerk. The notice of the meeting to review such special assessment roll and to hear objections to such special assessments shall be in substantially the following form:

Meeting to review special assessment roll No. _____
and to hear objections to the special assessments
assessed against special assessment district No. _____
in the City of Au Gres, Michigan:

Please take notice that the Council will meet at
_____ (insert address) on _____,
the _____ day of _____, 19____ at
_____ o'clock P.M. for the purpose of reviewing
said special assessment roll No. _____ and of hearing

any and all objections to the special assessments as assessed in said roll No. _____ made in the matter of constructing the following described improvements.
(insert specific description of particular improvement.)
The assessment roll is on file in the office of the City Clerk for public examination. The special assessments therein contained have been assessed according to law against the parcels of land constituting special assessment district No. _____, which district is described as follows:

(insert description of special assessment district.)
The above assessments and all proceedings upon which they are based shall be incontestable, unless suit to contest the validity thereof is instituted within thirty (30) days after the day of the confirmation of said special assessment roll No. _____.

Dated, City of Au Gres, Michigan, this _____ day of _____, 19____.

City Clerk

(9) Review of Special Assessments. At the time and place appointed for the purpose aforesaid, the Council and City Assessor shall meet and there or at some adjourned meeting review the assessments and hear any objection to any assessment which may be made by any person deeming himself aggrieved thereby; and the Council shall correct the same if necessary, and confirm it as

reported or as corrected; or they may refer the assessment back to the City Assessor for revision, or annul it and direct a new assessment, in which case the same proceeding shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the City Clerk shall make an endorsement upon the roll showing the date of confirmation.

(10) Confirmation Final. When any special assessment roll shall be confirmed by the Council it shall be final and conclusive.

Notwithstanding any provisions of this ordinance, the Council may, in its discretion, delay the preparation of the special assessment roll until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Council, and the special assessment roll shall be then made for such actual cost rather than for estimated cost as in other cases.

(11) Incontestable After Thirty Days. Such special assessments and all proceedings upon which such special assessments are based shall be incontestable, unless suit to test the validity thereof is instituted within thirty (30) days after the date of confirmation of such special assessment roll.

(12) Payment by Installments. At the same meeting at which the special assessment roll is confirmed by the Council the Council shall by resolution determine the number of annual installments, if any, into which all assessments levied in such assessment roll shall be divided for collection, not exceeding ten (10) in number, at such time of year as the Council shall determine, with annual interest at the rate not exceeding six percent (6%) per annum, provided no interest shall be charged

until thirty (30) days after confirmation; if the last date for payment without interest, or when the last day of any month falls on Sunday or a legal holiday, or a day when the Treasurer's office is officially closed, then such payment may be made without interest or without additional interest, as the case may be, on the next secular day. The whole assessment may be paid to the City Treasurer at any time after confirmation in full with accrued interest thereon.

(13) Lands Divided After Assessment. Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, and before the collection of all installments, the Council may require the City Assessor to apportion the uncollected amounts upon the several parts of lots and lands so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties and all assessments thereafter made upon such lots or lands shall be according to such division.

(14) Report to City Assessor. Whenever any special assessment shall be confirmed and be payable, the Council may direct the Clerk to report to the City Assessor a description of such lots and premises as are contained in said roll with the amount of the assessment levied upon each and the name of the owner or occupant against whom the assessment was made, and direct said City Assessor to levy the several sums so assessed respectively. The City Assessor shall levy the sums therein mentioned upon the respective lots and premises to which they are specially assessed and against the persons chargeable therewith as a tax in the general tax roll next thereafter to be made

in a column for special assessments, and thereupon the amount so levied in said tax roll shall be enforced and collected with the other taxes in the tax roll, and in the same manner; and shall continue to be a lien upon the premises assessed until paid, and when collected shall be paid into the City Treasury.

(15) Collection From Assessment Roll. Whenever any special assessment roll shall be confirmed, the Council instead of requiring the assessments therein to be reported to the City Assessor as provided in the section 14 may direct the said assessments to be collected directly from the special assessment roll, together with any interest which may become due thereon; and thereupon the Clerk shall attach his warrant to said special assessment roll, commanding the Treasurer to collect the amount of money assessed against each lot, premises, or parcel of land described in said roll, together with any interest which may become due thereon, at such times and in such manner as prescribed by the law and by resolution of the Council. Said warrant shall further require the City Treasurer on the first day of April following the date when such assessments or any installments thereof have become due to submit to the Council a sworn statement setting forth a description of the lots, premises, and parcels of land, including accrued interest computed to April 1st of such year.

(16) Collection by Treasurer. Upon receiving said special assessment roll and warrant, the Treasurer shall proceed to collect the amount assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the Treasurer shall seize and levy upon any personal property found within the City

or elsewhere within the State of Michigan belonging to such person and sell the same at public auction, first giving sixty (60) days notice of the time and place of such sale by posting such notice in three (3) public places in the City or Township where such property may be found. The proceeds of such sale or so much thereof as may be necessary for that purpose shall be applied to the payment of the assessment, the costs and expenses of seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

(17) Report of Delinquent Assessments. The Treasurer shall report delinquent assessments or installments thereof as required in the warrant of the Clerk. The Council shall then certify the same to the City Assessor, who shall reassess the same on the next annual city tax roll in a column headed "Special Assessments", with interest to April 1 of such year, and an additional penalty of four (4%) percent of such amount, and such total amount, when so reassessed upon said tax roll shall be collected in all respects as provided for the collection of city taxes. Unpaid special assessments reassessed upon the city tax roll shall be returned to the County Treasurer for collection at the same time and in the same manner as city taxes.

(18) Delay Due to Contest. Should any of the proceedings authorized to be taken under the provisions of this Ordinance be delayed by reason of any suit or action to contest the validity thereof, then such proceedings shall be taken as soon as such delay has ended.

(19) Should the assessments in any special assessment roll, including the amount assessed to the City-at-large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the Council shall make additional assessments against the City and the several lots and parcels of land, in the same ratio as the original assessments, to supply the deficiency; but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement. Should the assessments levied prove to be more than five (5) percent larger than necessary to defray the cost of the improvement, then the Council shall, by resolution, order the excess over (5) percent to be applied to the unpaid installments of said special assessments against each lot or parcel of land, in the inverse order in which they are payable. Any amount of such excess as to any lot or parcel of land which cannot be applied as aforesaid shall be refunded to the owner as indicated by the records of the City Assessor at 8:00 a.m. on May 1 immediately following the determination of the amount of excess to be refunded, unless some other person shall, before payment of said refund, establish to the satisfaction of the City Treasurer that he is legally obligated to pay the taxes on said lot or parcel of land, in which case such other person shall receive the refund.

This ordinance shall be effective 30 days after adoption.

This ordinance adopted the 5th day of March, 1981.

Edward Tamosky
Mayor

Dorothy Hill
City Clerk

CITY OF AUGRES

ORDINANCE TO AMEND SPECIAL ASSESSMENT ORDINANCE

An ordinance to amend an ordinance for special assessments adopted the 5th day of March, 19 81.

WHEREFORE, it has become necessary to amend paragraph twelve of the special assessment ordinance for the City of AuGres.

IT IS HEREBY RESOLVED that paragraph twelve of the special assessment ordinance of the City of AuGres shall be amended as follows:

(12) Payment by Installments. All special assessments shall be due and payable as provided in the resolution confirming the roll, and the council is authorized to order that assessments be paid in approximately equal annual installments at such time of the year as the council may determine. After the council has confirmed the roll, the treasurer shall notify by mail each property owner on the roll stating the amount assessed against the property owned by him or her. If such assessment is payable in installments, the owner shall be notified of the due dates of the installments, the number of installments and the date from which interest begins to run. Failure to receive such notice shall not invalidate any special assessment roll of the city or excuse the payment of interest or penalties on installments. Installments of special assessments to be paid after the first installment may be ordered by council to be spread upon the City Tax Roll in the year in which the same become due and payable, in which case the installment shall be collected at the same time, in the same manner and subject to the same conditions as city taxes upon such roll. In the order confirming a special assessment roll, the council may determine to charge interest upon installments of special assessments at a rate of up to 6% per annum; provided that if the City issues bonds or notes in anticipation of the future installments, the council may determine to charge interest on such installments at a rate not to exceed 1% upon the average interest cost on such bonds or notes that were sold to finance the public improvements; provided further, that no interest shall be charged until 30 days after confirmation of the roll. The whole amount of any special assessment remaining unpaid may be paid to the treasurer of the city at any time after confirmation of the special assessment roll, together with accrued interest thereon through the date of payment. If the last date for payment without interest, or the date for payment of any special assessment or installment thereof falls upon a Sunday or a legal holiday, or a day when the treasurer's office is officially closed, then such payment may be made on the next business day without interest, or without additional interest, as the case may be.

IT IS FURTHER RESOLVED that the remaining paragraphs of the special assessment ordinance shall remain in full force and effect.

This ordinance shall be effective immediately upon publication.

This ordinance adopted the 3rd day of April, 1986.

Dennis Nixon
Dennis Nixon, Mayor

Patricia Killingbeck
Patricia Killingbeck, City Clerk

CITY OF AUGRES
AMENDMENT TO SPECIAL ASSESSMENT ORDINANCE

An Amendment to the City of AuGres Ordinance attempted on March 5, 1981 to establish special assessment procedure to be used, by the City of AuGres, when special assessment may be levied, the kinds of local public improvements for which a hearing is required on the resolution levying the special assessments; the preparing of plans and specifications; estimated costs; the preparation hearing and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessments method.

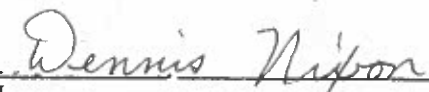
Whereas the City Council adopted a Special Assessment Ordinance on March 5, 1981.

Whereas the City Council has determined it necessary to amend Section 12 of said ordinance.

It is hereby ordained by the City Council that Section 12 of the Special Assessment Ordinance shall be amend as follows:

Payment by Installments. At the same meeting at which the special assessment roll is confirmed by the Council the Council shall be resolution determine the number of annual installments, if any, into which all assessments levied in such assessment roll shall be divided for collection, not exceeding twenty (20) in number, at such time of year as the Council shall determine, with annual interest at the rate not exceeding twelve percent (12) per annum, provided no interest shall be charged until thirty (30) days after confirmation; if the last date for payment without interest, or when the last day of any month falls on Sunday or a legal holiday, or a day when the Treasurer's office is officially closed, then such payment may be made without interest or without additional interest, as the case may be, on the next secular day. The whole assessment may be paid to the City Treasurer at any time after confirmation in full with accrued interest thereon.

This amendment shall be effective upon publication. This amendment was adopted on June 1, 1989.



Mayor Dennis Nixon



City Clerk, Patricia Killingbeck

Effective date: June 7, 1989