

CHAPTER 3.12

SPECIAL ASSESSMENTS

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3.12.010 Assessment of Public Improvement.

Any public improvement, the cost of which is to be wholly or partially assessed against the real property benefitted thereby, shall be assessed in the manner provided herein, except for sidewalks affecting single properties. (Ord. 15426 §1; February 12, 1990: P.C. §14.12.010: Ord. 13014 §1; October 20, 1980).

3.12.020 Distribution of Assessment.

The Director of Public Works shall ascertain the total cost of public improvements after any such public improvement has been completed and the Director of Public Works shall then prepare a proposed distribution of assessment report. The report shall set forth the nature and location of the improvement, the total cost thereof, the legal description of the separately owned lots, tracts, or parcels to be assessed for the improvements, the owner or owners of record thereof as disclosed by the records in the office of the Register of Deeds, and the suggested assessment for each such separately owned lot, tract, or parcel. The director shall deliver the proposed distribution of assessment report to the City Clerk for presentation to the City Council at a regular meeting thereof. (Ord. 15426 §2; February 12, 1990: P.C. §14.12.015: Ord. 13014 §2; October 20, 1980: prior Ord. 6542 §1; February 4, 1957).

3.12.030 Council to Assess Cost.

The City Council, by resolution at the regular meeting held on the day specified in the notice provided for in Section 3.12.040, shall assess the cost of said improvement upon the real property within the improvement district after stating the cost of the improvement and the benefit accruing to the property assessed by reason of the improvement, which resolution with the vote of the members voting, by yeas and nays, shall be recorded in the minutes. The City Council shall include within said resolution a proposed distribution of the assessment on each separately owned lot, tract, or parcel to be assessed subject to the action of the City Council sitting as a Board of Equalization at a meeting to be held at a time and place

therein prescribed. The City Clerk shall issue a Notice of Assessment as required in this section. (Ord. 15426 §3; February 12, 1990: P.C. §14.12.020: Ord. 6542 §2; February 4, 1957).

3.12.040 Notice of Assessment.

The City Clerk shall cause to be published a notice of the proposed assessment in a legal newspaper published and of general circulation in the city at least ten days before the City Council considers the proposed assessment as provided in Section 3.12.030. Such notice shall state the date, time, and place where the City Council will consider the proposed assessment and shall also state that the City Council will sit as a Board of Equalization to distribute the assessment at the time stated in the notice, which time shall not be less than five days after the assessment is made by resolution as provided in Section 3.12.030, and that the proper distribution of such special assessment shall be open to examination of all persons interested. Within five days after the publication of such notice, the City Clerk shall cause to be served by United States mail a copy of the published notice upon the owner or owners of record of such lot, tract, or parcel to be so assessed, whose name and post office address are known to the clerk. The City Clerk shall make and file proof by affidavit of the mailing of such notice within ten days after mailing such notice. The affidavit of mailing of notice shall, when applicable, further state that the City Clerk, after diligent investigation and inquiry, was unable to ascertain and does not know the post office address of the owner or owners of such lots, tracts, or parcels to be assessed other than those to whom notice has been mailed in writing, and shall list such owner or owners by name and legal description of the lot, tract, or parcel of land within the improvement district owned by each such owner or owners and averring that after diligent investigation and inquiry the City Clerk has been unable to obtain service by mail as provided in this section. Upon the filing of such affidavit, the published notice provided in this section shall be deemed to be constructive notice to such owner or owners set forth in the affidavit of the City Clerk; and no other notice shall be deemed necessary. Mailing of notice may be waived in writing by any competent person, fiduciary, or by any partnership or corporation acting on their own behalf. (Ord. 15426 §4; February 12, 1990: P.C. §14.12.030: Ord. 6542 §3, as amended by Ord. 6601; June 17, 1957).

3.12.050 Board of Equalization; Duties.

At the time specified in the notice required by Section 3.12.040 for the meeting of the Board of Equalization, the City Council, sitting as a Board of Equalization, shall equalize all special assessments except for sidewalks affecting single properties. It shall be the duty of the Board of Equalization to equalize said assessments before special assessments for local improvements are finally levied, distributed, and apportioned, and the Board of Equalization shall correct any errors or omissions therein. The board shall organize and be in session until it hears all complaints owners may make to the proposed distribution and levy of the tax and shall equalize the tax and correct any errors therein. The board shall not increase the assessment charged on any property unless the record owner thereof is specifically notified of the increase in person or by mail to his last known address or by published notice in the manner provided in Section 3.12.040. An alternate proposed distribution may be submitted by any Board of Equalization member or any owner interested, whereupon notice shall be given for a second session for equalization in the same manner as prescribed in Section 3.12.040. At said second session, the equalization shall be completed. (Ord. 15426 §5; February 12, 1990: P.C. §14.12.040: Ord. 13164 §1; June 29, 1981: prior Ord. 6542 §4, as amended by Ord. 6615; July 8, 1957).

3.12.060 Reassessment.

In all cases where special assessments for any purpose have been or may be declared void or invalid for want of jurisdiction in making or levying such special assessments, or on account of any defect or irregularity in the manner of levying or equalizing the same, or for any cause whatever, the City Council may reassess or relevel a new assessment equal to the special benefits and not exceeding the cost of the improvement for which the assessment was made upon the property originally assessed. Such reassessment or relevel shall be made substantially in the manner provided for making original assessments of like nature, and when so made shall constitute a lien upon the property prior to and superior to all other liens, except liens for taxes or other special assessments. Special assessments so reassessed shall be enforced and collected as other special taxes; provided, in all cases under the provisions of this section, the City Council, before making any such reassessment or relevel, shall give notice of such reassessment or relevel in the same manner as provided in Section 3.12.040 hereof for the original assessment. In making such reassessment, the City Council shall take into consideration payments, if any, made on behalf of the property reassessed under such prior void assessment; and if such prior payments exceed the special assessment given on the property as finally determined, the excess, with lawful interest thereon, shall be refunded to the party paying the same. (Ord. 15426 §6; February 12, 1990: P.C. §14.12.050: Ord. 6542 §5, as amended by Ord. 6615; July 8, 1957).

3.12.070 Special Assessment Revolving Fund; Created.

There is hereby created and established a Special Assessment Revolving Fund as authorized by Paragraph (2) of Section 10a of Article VIII of the Charter of the City of Lincoln, Nebraska. (Ord. 15426 §7; February 12, 1990: P.C. §14.14.010: Ord. 8161 §1; August 26, 1963).

3.12.080 Special Assessment Revolving Fund; Source of Money.

There shall be paid into the Special Assessment Revolving Fund hereby created and established all special assessment collections, including interest, heretofore or hereafter made, and there shall be paid into said fund all of the proceeds of all special assessment bonds. (Ord. 15426 §8; February 12, 1990: P.C. §14.14.020: Ord. 8161 §2; August 26, 1963).

3.12.090 Special Assessment Revolving Fund; Use of Money.

From the Special Assessment Revolving Fund hereby created and established, there shall be paid the cost of special assessment improvements, and there shall also be paid from such fund the principal and interest of all special assessment bonds. (Ord. 15426 §9; February 12, 1990: P.C. §14.14.030: Ord. 8161 §3; August 26, 1963).