

**VILLAGE OF MAYBEE
MONROE COUNTY, MICHIGAN
ORDINANCE NO. 2006-007**

An Ordinance to establish a special assessment procedure for the making of public improvements and to repeal previously adopted Village Ordinances regarding special assessment procedures.

THE VILLAGE OF MAYBEE ORDAINS:

Section 1. Definitions.

The following terms as used in this Ordinance shall have the meanings herein defined.

A. The term "improvement" shall mean any public improvement that by law the Village is authorized to make, any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefited thereby, in proportion to the benefit to be derived from the improvement.

B. The term "cost" when referring to the cost of any improvement, shall include the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing, bond counsel, legal fees and construction and all other costs incident to the making of such improvement, the special assessment district and the financing of the district.

C. The term "Council" shall mean the Council of the Village of Maybee.

D. The term "district" shall mean the special assessment district created or to be created for the making of an improvement.

Section 2. Council Authority.

The Council shall have the power to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessments upon the property especially benefited, but such determination shall not be made until the preliminary proceedings provided for in Section 4 shall have been completed.

Section 3. Special Assessment District/Intent to Create.

In order to permit adequate scheduling, grouping and financing of improvements, petitions should be filed with the Village six (6) months in advance of the estimated construction dates. The Village President shall upon receipt of petitions sufficient for the creation of a special assessment district, present the matter to the Council for consideration. If the Council desires to proceed, it shall adopt a resolution tentatively declaring its intent to create a special assessment district and shall set a date for a public hearing on the creation of a special assessment district.

Section 4. Preliminary Proceedings/Estimate of Costs of Improvement.

Before determining to make any improvement for which any part of the cost is to be defrayed by special assessment, the Council shall by resolution require the Village President to provide for the preparation of plans and specifications and an estimate of the cost for the improvement, and to file those estimates and plans with the Village Clerk with his recommendation as to what proportion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the Village, the number of installments in which assessment may be paid and the land which should be included in the special assessment district. After the report is filed with the Clerk, it shall be presented to the Council and said report shall be available for public examination no less than ten days prior to the date of the public hearing set for the creation of the district.

Section 5. Public Agency Exemption.

Whenever any land which should be included in the special assessment district may not be assessed pursuant to state law because it is owned by a public agency, a written agreement shall be sought by the Village whenever possible, to provide for the payment of the public agency's benefiting share of the cost of the improvement. The agreement or a statement that such agreement cannot be reached, shall be presented to the Council prior to the adoption by Council of the resolution provided for by Section 6 of this Ordinance.

Section 6. Determination and Notice of Public Hearing.

Upon receipt of a special assessment petition with the required signatures, and the adoption of a Resolution tentatively declaring the intention of the Village Council to create the district, the Council shall order the information presented to the Council by the Village President pursuant to Section 4 hereof filed in the office of the Village Clerk for public examination; shall direct the Village Clerk to give notice of said hearing which shall specify the time and place of such hearing and shall be published twice in a newspaper of general circulation in the Village, once not less than ten (10) days prior to the date of such hearing and once thereafter but prior to the date of the hearing. Such notice shall also be sent by first class mail not less than ten (10) days prior to the date of the hearing by the Village Clerk to each owner of the property subject to assessment, as indicated by the records of the Village President's or his her designee's office. the Village Clerk shall maintain on file in her office an affidavit of mailing with a list of all those record owners to whom a notice was mailed. Failure to send such notice to any owner of property shall not invalidate the proceedings or assessments. All notices shall state clearly the estimate of the costs of the improvements.

Section 7. Public Hearing on Creation of District.

The Council shall meet and review the proposed special assessment district and the improvement at the time and place appointed, or at an adjourned date if appropriate, and shall hear all persons interested in the necessity of the

improvements and all oral or written objections thereto. The Council may decrease the area of the proposed district prior to its creation but may not without an additional hearing increase the area of the district. Any changes made in the district area shall be noted in the Council's minutes.

Section 8. Council Determination/Creation of District.

After said report is presented to the Council, and the public hearing held, the Council may, by resolution, approve the plans and specifications and estimate the cost, determine to make the improvement and to defray the whole or any part of the cost of the improvement by special assessment upon the property especially benefited in proportion to the benefits thereto and what part, if any, shall be a general obligation of the Village; designate the district or land and premises upon which special assessments shall be levied and the Council may in its discretion determine to create the proposed special assessment district with such corrections as it may have made, if any, or may refer it back to the President or his/her designee for revision or may annul it and any proceedings in connection therewith. Upon creation of the district by Council resolution, the district shall be final and conclusive.

Section 9. Preparation and Filing of Roll.

1. Subsequent to the creation of the district, the Council shall direct the President to provide for the preparation of a special assessment roll in accordance with the Council's determination. The President shall provide for the preparation of a special assessment roll including all parcels of land within the special assessment district as created by the Council, and shall propose for the assessment to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount that has been assessed to the Village at large, if any.

2. When the assessment roll is completed, the President shall attach to the roll or endorse thereon his certificate to the effect that said roll has been made by him pursuant to a resolution of the Council (giving date of adoption of same) and that in making the assessments therein he has as near as may be, according to his best judgment, conformed in all respects to the directions contained in such resolution, and to the Village Charter and the provisions of this Ordinance. The special assessment roll shall then be filed with the Clerk who shall present it to the Council.

Section 10. Determination and Notice of Public Hearing.

Upon receipt of a special assessment roll the Council shall order it and the information presented to the Council by the Village President pursuant to Section 4 hereof filed in the office of the Village President or his/her designee for public examination; shall fix the time and place when it will meet and review such roll and hear all persons interested in the necessity of the improvement, and shall direct the Village Clerk to give notice of said hearing. Such notice shall specify the time and place of such hearing and shall be published twice in a newspaper of general

circulation in the Village, once not less than ten (10) days prior to the date of such hearing and once thereafter but prior to the date of the public hearing. Such notice shall also be sent by first class mail not less than ten (10) days prior to the date of the hearing by the Village Clerk to each owner of the property subject to assessment, as indicated by the records of the Village President's office. Failure to send such notice to any owner of property shall not invalidate the proceedings or assessments. All notices shall state clearly the estimate of cost of the improvements described in the roll.

Section 11. Objections to Roll.

Any person deeming himself aggrieved by the special assessment roll or the necessity of the improvement may file his objections thereto in writing with the Clerk prior to the close of said hearing.

Section 12. Public Hearing and Confirmation.

The Council shall meet and review the said special assessment roll at the time and place appointed, or at an adjourned date if appropriate, and shall hear comments from all persons interested in the necessity of the improvements and all oral or written objections thereto. The Council may correct the roll as to any assessment or description of any lot or parcel of land, or other errors appearing on the roll. Any changes made in the roll shall be noted in the Council's minutes. After such hearing and review, the Council may by Council resolution confirm the special assessment roll with such corrections as it may have made, if any, or it may refer it back to the President for revision or may annul it and any proceedings in connection therewith. Upon confirmation of a special assessment roll the Council shall determine the number of installments in which the assessments may be paid, the due date of the installments and shall determine the rate of interest to be charged on installments but not to exceed eight percent (8%) per annum if bonds are not to be issued or at a rate of not greater than 1% above the rate borne by the bonds issued in anticipation of the collection of the special assessments. The Clerk shall endorse the date of confirmation upon the special assessment roll. Upon confirmation, such roll shall be final and conclusive.

Section 13. Attachment of Lien.

All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for Village taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the Council vacating a special assessment, shall destroy or impair the lien of the Village upon the premises assessed for such amount of the assessment as may be equitably charges against the same, or as by a regular mode of proceedings might be lawfully assessed thereon.

Section 14. Handling of Assessment Roll.

The assessment roll shall be transmitted by the Clerk to the Treasurer for collection immediately after its confirmation. The Treasurer shall divide the assessment into installments when so ordered by the Council; provided, that if such division operates to make any installment less than ten dollars (\$10.00), then the Treasurer shall reduce the number of installations so that each installment shall be above and as near ten dollars (\$10.00) as possible. The Treasurer shall mail statements of the several assessments to the respective owners, as indicated by the records of the President or his/her designee, of the several lots and parcels of land assessed, stating the amount of the assessment and the manner in which it may be paid; and clearly stating on the first bill that the amount due is based upon "Estimated Costs" or "Final Costs" for the project described provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

Section 15. Delinquent First Installment.

When any such special assessment, or the first installment thereof when divided into installments, shall have been due and unpaid for more than thirty (30) days on the first day of September in any year, the same shall be reported by the Treasurer to the President or his/her designee who shall spread the same, in the December tax roll, together with interest accrued on the entire unpaid balance, computed to June 1 of the current year, plus a charge of one percent (1%) of the amount of such assessment or installment and such interest for each month or fraction of a month that the installment remains unpaid.

Further, when any first installment shall have been due and unpaid for thirty (30) days on the first day of May, such first installment shall be added to the second installment together with interest accrued to June 1 on the entire unpaid balance, and both installments with the interest accrued shall be billed on June 1 in the same manner as second installments, as outlined in Section 17.

Section 16. Early Payment.

The whole of any assessment or one or more full installments thereof may be paid during the first thirty (30) days after confirmation of the roll, without interest or penalty. After expiration of this thirty (30) day period the second and subsequent installments not yet reported to the President for adding to either the July or December tax roll, may be discharged by paying the face amount of such installment, plus interest thereon computed to the date of payment.

Section 17. Second and Subsequent Installments.

Second and subsequent installments shall be due and payable on the first day of June annually in each succeeding year following the year in which the first installment was due and payable, and shall be collected by the Treasurer from the original special assessment roll. The Treasurer shall give notice of the due date of

each such installment in the manner prescribed for the notification of taxes set forth in the Ordinance. In addition to the principal amount of each annual installment, there shall be added thereto and collected from the special assessment roll by the Treasurer as a part of each such installment, the interest due on the entire unpaid balance of the special assessment computed to June 1 of the year in which the installment is due; provided, that when any annual installment shall have been prepaid as herein provided, then there shall be due and payable on June 1 of such year, only the interest upon the unpaid balance of the special assessment. In collecting each installment from the special assessment roll, the Village Treasurer shall have the same rights and remedies as provided in the Ordinance for the collection of taxes. If any annual installment, the interest thereon or the amount due annually as interest on the unpaid balance of the assessment due in any year as herein provided, shall not be paid before the first day of September of the year when due, the amounts thereof shall be reported by the Treasurer to the President or his/her designee and such amounts, together with a charge of one percent (1%) of the amount of the installment and unpaid interest for each month or fraction of a month that the installment remains unpaid, shall be added to the December tax roll.

Section 18. Determining Actual Cost.

Upon completion of the improvement and payment of the cost thereof the Village President shall certify the total cost of said improvement to the Council together with the amount of the original roll for said improvement.

Section 19. Deficiency Assessments and Refunds.

1. Should the assessments in any special assessment roll including the amount assessed to the Village at large prove insufficient for any reason to pay the cost of the improvement for which they were made then the Council may make additional assessments against the Village and the several lots and parcels of land within the special assessment district; and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district; or the Council may determine that such deficiency shall be paid by the Village but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement. In the event the deficiency assessment to be levied against the benefiting property as described above exceeds the original estimated cost by 10% or more, Council shall order a public hearing with the notice of said hearing to be as described in Section 12 of the Ordinance.

2. Should the total amount collected on assessments levied prove to be more than necessary by more than 5% of the original roll then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next Village tax levied against such property respectively or if there be no such tax then it shall be refunded to the persons who are the respective record owners of the properties on the date of the passage of the resolution ordering such refund. Any such surplus of 5% or less may be paid into the Village general fund.

Section 20. Reassessment in Event of Illegality.

Whenever any special assessment shall, in the opinion of the Council be invalid by reason of irregularity or informality in the proceedings or if any court of competent jurisdiction shall adjudge such assessment to be illegal the Council shall whether the improvement has been made or not or whether any part of the assessment has been paid or not have the power to cause a new assessment to be made for the same purpose 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 in the original assessment and whenever the assessment or any part thereof levied upon any premises has been so set aside if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied.

Section 21. Collection by Court Action.

In addition to any other remedies and without impairing the lien therefore, any delinquent special assessment together with interest and penalties may be collected in an action in assumpsit in the name of the Village against the person assessed in any court having jurisdiction of the amount. If any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant or upon the premises sought to be charged the court may, nevertheless, on satisfactory proof that expense has been incurred by the Village which is a property charge against the defendant or the premises in question render judgment for the amount properly chargeable against such defendant or upon such premises.

Section 22. Repeal.

All Ordinances in conflict with this Ordinance specifically Ordinance Nos. 130, 132 and 134 are to the extent of such conflict hereby repealed.

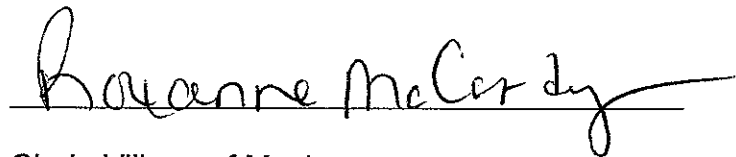
Section 23. Effective Date.

This ordinance shall take effect upon publication.

I, Roxanne McCurdy, Clerk of the Village of Maybee, do hereby certify that the above Ordinance was approved and adopted by the Village Council at the regular meeting thereof, held on the 13th day of September, 2006, at 7:30 p.m. Eastern Standard Time, the vote thereon being as follows:

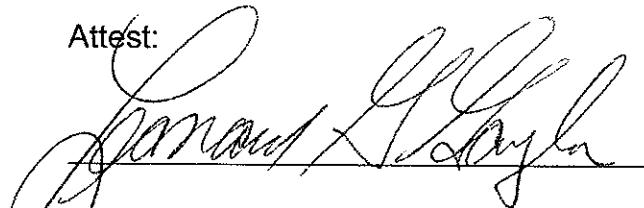
In favor of the Ordinance (6)

Against the Ordinance (0)



Clerk, Village of Maybee

Attest:



President, Village of Maybee