

THE VILLAGE OF EDMORE ORDAINS
AN ORDINANCE TO ADOPT ORDINANCE NO 2018-1 "SPECIAL ASSESSMENT ORDINANCE"
VILLAGE COUNCIL
VILLAGE OF EDMORE
MONTCALM COUNTY, MICHIGAN
Adopted:
Published:
Effective:

Ordinance 2018-1

Section 1. Title.

This ordinance shall be known and may be designated as the "Village of Edmore Special Assessment Ordinance."

Section 2. Definitions and word usage.

As used in this chapter, the following terms shall have the meanings indicated:

Assessor, Clerk, Treasurer, Manager -Those persons duly appointed to such offices or positions in the Village of Edmore.

Costs-Includes the expense of surveys, plan assessments, costs of construction, spreading of roll, notice, advertising, printing, financing, legal, engineering, condemnation, and all other costs incidental to the making of the improvement or of the abatement of the hazard or nuisance.

Council- The Village Council of the Village of Edmore.

Engineer-The Village Engineer or such other engineer specifically employed for work on the improvement.

Improvement- Any public betterment.

Lot or Parcel of Land — Any subdivision, lot or portion thereof as officially platted, or any unplatted parcel of land as may be described on any official record.

Owner-The last recorded title holder of any lot or parcel of land where the person who is last listed upon the Village tax roll as the owner of a certain lot or parcel of land.

Person- An individual, group, partnership, firm, association, corporation or congregation.

Village-The Village of Edmore, Montcalm County, Michigan.

Words. The plural and the masculine shall include the feminine and neuter.

Section 3. Board of Assessors.

There is hereby established a Board of Assessors for the Village of Edmore consisting of three members who shall be property owners and electors in the Village to be appointed annually by the President, by and with the consent of the Council, whose duties it shall be to make all special assessments. Their compensation shall be as prescribed by the Council.

Section 4. Improvement procedure.

Advisory petition. The Council, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvements to be made, may request and receive a petition therefor, or may receive such petition voluntarily presented; but in either event, such petition shall be advisory only and shall not be jurisdictional.

Contents of petition. All advisory petitions shall be addressed to the Council and contain a brief description of the improvement sought to be made or the nuisance or hazards sought to be abated and shall be signed by property owners only whose signatures shall be followed by a brief description of the property owned by them. The signatures on such petitions shall be verified by the oath of one or more of the circulators of such petition before filing.

Filing of petition. Advisory petitions shall be filed with the Clerk who should check them for signatures and correctness and if they are found to be in order shall refer them to the President who shall present them to the Council at its regular or special meeting called for that purpose for the Council's consideration.

Initiatory resolution. When, by the provisions of the laws of the State of Michigan, the Council shall have the power to make a public improvement by special assessment, it shall, by resolution, set forth the improvement intended to be made and direct the Village Manager to prepare a report, with the assistance of the Engineer, containing any information the Council may request concerning such improvement.

Plans and specifications. The Village Manager shall request the engineer to prepare, or cause to be prepared, plans and specifications of the improvement to be made, an estimate of the life of the improvement and the cost thereof, and plats of the lands affected thereby, and such other information as the Council may have requested.

Report of Village Manager. The Village Manager shall prepare his report and include in it a schedule of all property affected by the proposed improvement, listing the assessed valuation, tax delinquencies, whether the land is vacant or improved, pertinent information on such parcels as are owned by public authorities, and such other information as the Council may have requested and shall present it to the Council along with the plans and specifications of the engineer, together with his recommendations as to what proportion of the cost shall be paid by special assessment and what part, if any, shall be a general obligation of the Village, the number of installments in which the assessment should be spread and the land which should be included in the special assessment.

Notice of hearing. After the filing of the reports, plans and specifications, and estimates of the costs above referred to, the Council shall, by motion, order the same filed with the Clerk for public examination and provide for a public hearing before it on the improvement to be made, which hearing shall be not less than one week after notice thereof has been given by publication in a newspaper of general circulation within the Village, or by posting notices in three public places in the Village. Notice of hearings in special assessment proceedings shall be given to each owner of or party in interest in property to be addressed whose name appears upon the last local tax assessment records at least 10 days before the date of the hearing.

Section 5. Public hearing; objections and changes.

- At the time and place specified in such notice for the public hearing, the Council shall meet and hear any person to be affected by the proposed public improvement. The hearing may be adjourned from time to time by the Council, and the Council may make any changes in the proposed work or assessment, which shall seem reasonable or proper in view of any objections, or for any other reason which may appear to be for the best interest of the Village; provided that, if the improvements intended to be made are enlarged upon or additions made to the district to be assessed, the same shall not be done until after another hearing is held pursuant to notices required for the original hearing.

- **Section 6. Resolution of determination.**

- After said public hearing, the Council may, by resolution, determine to make the improvement and defer the whole or any part of the cost of the improvement by special assessment upon the property especially benefited in proportion to the benefits derived, or to be derived, and designate whether it is to be assessed according to frontage or other basis. By such resolution, the Council shall approve the plans and specifications for the improvements, determine the number of installments in which assessments may be paid, determine the rate of interest to be charged on installments, not to exceed 15% per annum, designate the district or premises upon which special assessment shall be levied, direct the Board of Assessors to prepare a special assessment roll in accordance with the Council's determination, and designate the name by which said assessment roll shall be known and referred to.

- **Section 7. Special assessment roll.**

- Preparation. The Board of Assessors shall thereupon prepare a special assessment roll, including all lots and parcels of land within the special assessment district, designated by the Council, and assess 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 of such lot or parcel of land bears to the total benefits of all lands in such district. There shall also be entered upon such roll the amount that has been assessed to the Village at large. Certificate of Board of Assessors. When the Board of Assessors shall have completed such assessment roll, it shall attach thereto, or endorse thereon, its certificate to the effect that said roll has been made by the it pursuant to resolution of the Council and that in making the assessments therein, the Board has, as near as may be, according to its best judgment, conformed in all respects to the directions contained in such resolution and the provisions of this chapter. Thereupon, the Board of Assessors shall file said special assessment roll with the Clerk who shall present the same to the Council.
- Notice of hearing on roll. Upon receipt of such special assessment roll the Council may order it filed in the office of the Clerk for public examination, and shall, by motion, fix the time and place when the Council will meet and review such roll, which meeting shall be held not less than one week after notice thereof, specifying the purpose, time and place, has been given by publication in some newspaper of general circulation within the Village, or by posting notices in three public places within the Village. Notice of hearings in special assessment proceedings shall be given to each owner of or party in interest in property to be addressed whose name appears upon the last local tax assessment records at least 10 days before the date of the hearing. This notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which an appearance and protest shall be made.
- Written objections. Any person deeming himself aggrieved by the special assessment roll may

file his objections thereto in writing with the Clerk prior to the close of said hearing which written objections shall specify in what respect he deems himself aggrieved. If written objection is received by the owner or party in interest, their personal appearance shall not be required.

Hearing on objections. The Council and Board of Assessors shall meet and review the said special assessment roll at the time and place appointed or at an adjourned date therefor and shall consider any written objections thereto.

Corrections and changes. The Council may correct said roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the Council minutes.

Confirmation or rejection of roll. After such hearing and review, the Council may confirm such special assessment roll with such corrections as may have been made, if any, or may refer it back to the Board of Assessors for revision or may annul it and any proceedings in connection therewith.

Section 8. Lien created.

Lien established. All special assessments shall, from the date of confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and shall be a charge against the persons to whom assessed until paid.

Additional assessments. Should any special assessment prove insufficient to pay for the improvement or work for which it was levied, and the expenses incident thereto, the Council may, within the limitations prescribed for such assessments, make an additional pro rata assessment to supply the deficiency; and in case a larger amount shall have been collected than was necessary, the excess shall be refunded ratably to those by whom it was paid.

Assessment declared illegal. 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 any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All the proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment and whenever any sum or any part thereof levied upon any premises in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment on said premises, and the reassessment shall to that extent be deemed satisfied.

Section 9. Collection.

If, after hearing all objections and making a record of such changes as the Village Council deems justified, the Village Council determines that it is satisfied with the special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll, placing it on file in the office of the Village Clerk, and directing the Village Clerk to attach his warrant to a certified copy thereof within 10 days, therein commanding the Village Treasurer to spread the various sums and amounts appearing thereon on a special assessment roll for the full amounts or in annual installments, as may be directed by the Village Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement.

Under this chapter, 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 parcels of land assessed. 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 or any act of the Village 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 charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

Any assessment, or part thereof, remaining unpaid on the first Monday of March following the date when it became delinquent shall be reported as unpaid by the Village Treasurer to the Village Council. Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual Village tax roll in a column headed "Special Assessments" with a penalty of 5% upon the total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of Village taxes.

If a parcel of real property assessed under one legal description is divided by the Assessor for assessment purposes pursuant to Section 53 of Public Act No. 206 of 1893 (MCLA § 211.53, MSA§ 7.97) and the owner of a part of the divided parcel elects to pay the full balance remaining of a special assessment for that owner's portion of the divided parcel of property, including all interest, penalties and charges, the lien created pursuant to this section and/or § 125-8 of this chapter shall be discharged as to that portion of the original assessed parcel for which the payment is made.

Section 10. Single lot procedure.

Report of Village Manager. When any expense shall be incurred by the Village upon or in respect to any separate or single lot, parcel of land, or premises, which, by the provisions of the laws of the State of Michigan as are applicable to Villages, the Council is authorized to charge and collect as special assessment against the same, and not being of that class of special assessments to be made pro rata upon several lots or parcels of land in an assessment district, verified by the officer or person performing the labor or services, with the description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner, or persons chargeable therewith, shall be reported to the Council in such manner as the Council shall prescribe.

Resolution of determination. The Council, by resolution, shall determine what amount or part of every such expense shall be charged, and the persons, if known, against whom, and the premises upon which the same shall be levied, as a special assessment, and as often as the Council shall deem it expedient, it shall require all of the several amounts so reported and determined, and the several lots or premises, and the persons chargeable therewith respectively be reported by the Clerk to the Board of Assessors for assessment.

Special assessment roll. Upon receiving the report mentioned in Subsection B, the Board of Assessors shall make a special assessment roll, and levy as a special assessment therein upon each lot or parcel of land so reported to them and against the person chargeable therewith, if known, the whole amount or amounts of all the charges so directed to be levied upon each of such lots or premises respectively, and when completed they shall report the assessment to the Council, and thereupon the same proceedings shall be had, and with like effect as is provided in this chapter in other cases of special assessments.

Section 11. Time of levy.

Special assessments, to defray the estimated costs of any improvement, shall be levied or collected immediately after the completion of the project.

Section 12. Pending prosecutions.

A prosecution which is pending on the effective date of this chapter and which arose from violation of an ordinance repealed by this chapter, or prosecution which is started within one year after the effective date of this chapter and/or arising from a violation of an ordinance repealed by ordinance and which was committed prior to the effective date of this chapter, shall be tried and determined exactly as if the ordinance had not been repealed.