

**VILLAGE OF OTTER LAKE
SPECIAL ASSESSMENT ORDINANCE
ORDINANCE NUMBER 33**

An ordinance to provide for the making of public improvements and paying for the public improvements in whole or in part by special assessments, and to provide for the collection of the special assessments.

THE VILLAGE OF OTTER LAKE ORDAINS:

Section 1. AUTHORITY. This ordinance is adopted pursuant to the authority conferred by Public Act Number 3 of 1895, being MCL 61.1 et. Seq.

Section 2. DEFINITIONS. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost, when referring to the cost of any local public improvement means the cost of services, plans, condemnations, spreading of rolls, notices and advertising, financing, construction and legal fees and all other costs incident to the making of such improvement, the special assessments therefore and the financing thereof.

Local public improvement means any construction of or improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.

Section 3. AUTHORITY TO ASSESS. The entire cost or any part thereof of any local public improvement may be defrayed by special assessment upon the lands specially benefited by the improvements in the manner provided in this ordinance.

Section 4. INITIATION OF PROJECTS.

A. Proceedings for the making of local public improvements within the Village may be commenced by resolution of the Council on its own initiative or by an initiatory petition signed by property owners whose aggregate property in the proposed special assessment district was assessed for more than 50 percent of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll; provided, however, that in the case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by owners of more than 50 percent of the frontage of property to be assessed. Such petitions shall contain in addition to the signatures of the owners, a brief description of the property owned by the respective signers thereof.

B. Such petitions shall be verified by the affidavit of one or more of the owners or by some persons with knowledge that the signers are such owners and that such signatures are genuine.

C. Petitions shall be addressed to the Council and filed with the Village Clerk. Petitions shall in no event be mandatory upon the Council

D. The Village Clerk shall check the petitions to determine whether they conform to the foregoing requirements and shall report his findings to the Village Council

Section 5. MAPS, PLANS, SPECIFICATIONS, AND COST ESTIMATE. Before proceeding to the construction of any local public improvement, all or part of the expenses of which is to be defrayed by special assessment, the Council shall cause a map, plans, specifications, and a cost estimate to be made of those lands and premises which in their opinion will be benefited and which they intend to assess for the costs. Those lands shall constitute the special assessment district, and the map shall show the boundaries and divisions of all lots and premises in the district, and the proposed route and location of the public improvement through the same, also its depth,

grade, and dimensions. The map, plans, specifications, and cost estimate shall be deposited with the Clerk.

- Section 6. **DETERMINATION ON THE PROJECT; NOTICE.** After the Village Council has reviewed the map, plans, specifications, and cost estimates, it may adopt a resolution tentatively declaring its intent to proceed with the local public improvement, designating the special assessment district, placing the information in the office of the Village Clerk for public examination, and setting the date, time, and place for a public hearing to hear suggestions and objections from persons interested or liable to be assessed on the construction of the local improvement, the map, plans, specifications, cost estimates, and the special assessment district. The clerk shall prepare or cause to be prepared a notice of the public hearing designating the date, time, and place of the public hearing, and designating where the maps, plans, specifications and cost estimates may be examined. The notice of public hearing shall be published in a newspaper of general circulation in the Village not less than fourteen (14) days before the date of the public hearing, and shall be mailed by first class mail to each owner of or party in interest to be assessed whose name appears upon the last local tax assessment records, as updated, at least ten (10) days before the date of the hearing. The notice shall state that an owner or party in interest may appear in person at the hearing to protest, or shall be permitted to file his or her appearance or protest by letter and his or her personal appearance shall not be required. The notice of public hearing shall also include a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the State Tax Tribunal within thirty days after the confirmation of the special assessment roll if the special assessment was protested at the hearing held for the purpose of confirming the roll.
- Section 7. **HEARING ON PLANS AND DISTRICT.** At the public hearing on the proposed improvement, the Council may modify the scope of the local public improvement in such manner as they shall deem to be in the best interest of the Village as a whole, provided that if additions are made to the District, then another hearing shall be held pursuant to the notice set forth in the proceeding section. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the maps, cost estimates, plans, and the assessment district and directing the treasurer to prepare a special assessment roll in accordance with the Council's determination. The Council shall determine by resolution whether all of or part of the costs of the local public improvement shall be defrayed by special assessment upon the property specially benefited. The Council shall maintain a record of parties who appear to protest at the hearing.
- Section 8. **SPECIAL ASSESSMENT ROLL; FILING.** The treasurer shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount specially benefited hereby. When the treasurer shall have completed such assessment roll, he or she shall file the assessment roll with the village clerk for presentation to the Council for review and certification by it. Upon receipt of such special assessment roll, the Council, by resolution, shall accept such assessment roll and order it to be filed in the office of the Village Clerk for public examination, or send it back for the treasurer for modification. If the Village Council accepts the special assessment roll, it shall fix the time and place to meet to review the special assessment roll and direct the Village Clerk to give notice of the public hearing on the special assessment roll. The notice of public hearing shall designate the place where the special assessment roll shall be available for examination and shall provide that appearance and protest at the hearing on the special assessment roll is required in order to appeal the amount of the special assessment to the State Tax Tribunal and shall provide that an owner or party in interest or his or her agent may appear in person at the hearing to protest the special assessment, or shall be permitted to file his or her appearance or protest by letter and his or her personal appearance shall not be required. The notice of public hearing shall also include a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the State Tax Tribunal within thirty days after the confirmation of the special assessment roll if the special assessment was protested at the hearing held for the purpose of confirming the roll. The notice shall be published in a newspaper of general circulation in the Village not less than fourteen (14) days before the date of the public hearing and shall be mailed by first class mail to each owner

of or party in interest to be assessed whose name appears upon the last local tax assessment records, as updated, at least ten (10) days before the date of the hearing.

- Section 9. **PUBLIC HEARING ON SPECIAL ASSESSMENT ROLL.** The Council shall maintain a record of parties who appear to protest at the public hearing on the special assessment roll. After the hearing, the Village Council, at the same or a subsequent meeting, may confirm the special assessment roll, amend or correct the roll, refer it back to the treasurer for revision, or may annul it and direct a new roll to be made. The same proceedings shall be followed in making a new roll as in making a new roll as in making the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council determines that it is satisfied with the special assessment roll and that assessments are in proportion to the 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 or her warrant to a certified copy of the roll and commanding the treasurer to spread the various sums and amounts appearing thereon. Such roll shall have the date of confirmation endorsed thereon and shall be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual costs of the improvement as provided in this ordinance.
- Section 10. **INSTALLMENTS.** The Council may provide that special assessments are payable in one or more installments. Installments shall be due on or before the time after confirmation as the Council shall fix. All unpaid installments shall bear interest, payable on each installment due date set by the Council, at a rate of interest to be set by the Village Council not exceeding one percent above the average rate of interest borne by the municipal security issued in anticipation of the special assessments. The payment of future due installments of a special assessment may be made at any time in full with interest accrued to the due date of the next installment.
- Section 11. **ASSESSMENT AND INTEREST, LIEN, COLLECTION.** From the date of the confirmation of a roll levying a special assessment, the full amount of the assessment and the interest thereon shall constitute a lien on the premises subject thereto, and that amount shall be a debt of the person to whom assessed until paid and, in case of delinquency, may be collected as delinquent Village property taxes or by a suit against the person. A special assessment or any installment shall be considered delinquent if not paid by September 14th of the year after the due date.
- Section 12. **ADDITIONAL ASSESSMENTS; REFUNDS.** When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the Council may make an additional prorated assessment. No additional assessment for any public improvement which exceeds ten percent of the original assessment shall be made, unless such additional assessment be reviewed at a meeting of the Council, for which meeting notices shall be published and mailed as provided in the case of review of the original special assessment roll; together with any fees charged to pay for the same local public improvement costs as the special assessment, such as sewer availability fees (but not including the fees for operation, maintenance, replacement, and the cost of constructing a lead from a building to a local public improvement main) prove larger than necessary by more than five percent of the total cost of the improvement, the Council shall make a refund of the entire amount of the excess thereof prorated according to the assessments. Should the entire amount, as finally collected, together with the fees charged to pay for the same local public improvement as the special assessment, prove larger than necessary by five percent or less of the total cost of the improvement, the Council may transfer such excess to the general funds of the village.
- Section 13. **SPECIAL ASSESSMENT ACCOUNTS.** Monies raised by special assessment to pay the cost of any local public improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefore. Each special assessment account must be used only for the improvement project for which the assessment was levied.
- Section 14. **REASSESSMENT FOR BENEFITS.** Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Council

shall have the power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment except respecting the correction of the proceedings for the purpose of making the proceedings legal. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

The undersigned Clerk of the Village of Otter Lake hereby certifies that this ordinance was duly adopted by the Otter Lake village Council at a meeting held on the 7th day of June, 2004, and a synopsis was published in the County Press on the 16th day of June, 2004. This ordinance shall take effect upon the date of publication of the synopsis.

Joan Skias
Joan Skias, Clerk
Village of Otter Lake