

ORD-07-45

First Reading : September 24, 2007  
Public Hearing : October 1, 2007

Approved: October 1, 2007  
Published: October 7, 2007  
Effective: October 17, 2007

(FINANCIAL LOCAL PUBLIC IMPROVEMENTS, SPECIAL ASSESSMENTS  
AND TERRITORIAL ANNEXATIONS)

AN ORDINANCE TO AMEND SECTIONS 1:271 THROUGH 1:275 AND SECTIONS 1:277 THROUGH 1:278 OF CHAPTER 12, TO ADD A NEW SECTION 1:279 TO CHAPTER 12 OF TITLE I, TO AMEND SECTIONS 1:281, 1:284, 1:286, 1:292 AND 1:295 AND TO DELETE SECTION 1:283 OF CHAPTER 13 OF TITLE I, AND TO AMEND SECTION 5:148 OF CHAPTER 58 OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Sections 1:271 through 1:275 of Chapter 12 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:271. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (1) "Local public improvement" shall mean any initial public improvement conferring a special benefit on any parcel or parcels of land distinct from the benefit from such improvement to the city at large, including, by way of illustration but not limitation, sidewalks, ~~water mains and connections,~~ storm sewers, ~~sanitary sewers,~~ street grading, graveling and paving, curbs, gutters and the like. Except as explicitly provided in Chapters 12 and 13, "local public improvement" does not include water main improvements and sanitary sewer improvements.
- (2) "Local public improvement charge" shall mean the charge for a local public improvement that is levied against a parcel that benefits from the improvement either at the time of the improvement or at the time the parcel annexes to the city.
- (23) "Sidewalk" shall have the meaning set forth in Chapter 49 relative to sidewalks.

- (34) "Water mains and connections" shall have the meaning set forth in Chapter 27 relative to water service.
- (45) "Storm sewer" and "sanitary sewer" shall respectively have the meanings set forth in Chapter 28, relative to sewers and sewage disposal.
- ~~(5)~~(6) "Street" shall mean that part of any street, alley or public thoroughfare open to the public for vehicular or pedestrian traffic.
- (7) "Residential" and "residential unit" shall mean a one or two-family residential structure. All other residential structures shall be considered commercial structures or commercial units.
- (8) "Water main improvement" shall mean any initial public water mains conferring a special benefit on any parcel or parcels of land distinct from the benefit from such improvement to the city at large.
- ~~(7)~~(9) "Water main improvement charge" shall mean the charge to a property or to a residential, commercial or other unit on a property upon connection to the public water system. The water main improvement charge shall be calculated as provided in section 1:274 to represent the allocated cost of the water main improvement that serves the parcel or unit, brought current to the date of connection.
- (10) "Water Main Improvement Charge Fixed Charge" shall mean the charge per residential unit for water main improvements, set by ~~City~~ city Council annually by resolution and calculated on the basis of the city's average actual cost per residential unit for the 10 most recent publicly constructed water main improvement projects preceding the date the fixed charge is set by ~~City~~ city Council, with the costs of said projects adjusted as needed to be brought current, using the most recently published Handy-Whitman Index for "Distribution Plant Mains, Average All Types."
- (11) "Sanitary sewer improvement" shall mean any initial public sanitary sewers conferring a special benefit on any parcel or parcels of land distinct from the benefit from such improvement to the city at large.
- ~~(10)~~(12) "Sanitary sewer improvement charge" shall mean the charge to a property or to a residential, commercial or other unit on a property upon connection to the public sanitary sewer system. The sanitary sewer improvement charge shall be calculated as provided in section 1:274 to represent the allocated cost of the sanitary sewer improvement that serves the parcel or unit, brought current

to the date of connection.

- (713) "Sanitary Sewer Improvement Charge Fixed Charge" shall mean the charge per residential unit for sanitary sewer improvements, set by ~~City-city Council-council~~ annually by resolution and calculated on the basis of the city's average actual cost per residential unit for the 10 most recent publicly constructed sanitary sewer improvement projects preceding the date the fixed charge is set by ~~City-city Council-council~~, with the costs of said projects adjusted as needed to be brought current, using the most recently published "Engineering News Record-Construction Cost Index."

### **1:272. Financing policy.**

- (1) Except as otherwise provided by this Code or regulation of the city planning commission, in respect to approval of plats, and except as otherwise provided by this Code relative to water main improvements and sanitary sewer improvements, it shall be the general policy of the city to finance construction by the city of local public improvements by special assessment or single lot assessment levied in accordance with Chapter 13, relative to special assessments or, if applicable, by local public improvement charges levied in accordance with section 1:278279.
- (2) Except as otherwise provided by this Code or regulation of the city planning commission, in respect to approval of plats, it shall be the general policy of the city to finance construction by the city of water main improvements by a water main improvement charge paid at the time of connection to the public water system. For properties located within the city, the water main improvement charge will be imposed and collected by special assessment or single lot assessment levied in accordance with Chapter 13. Provided, that the city may choose to create a special assessment district or impose a single lot assessment and collect such assessment at the time of construction in advance of connection. If that is done, the water main improvement charge at the time of connection shall be adjusted as provided in subsection 1:278(6) or (9).
- (3) Except as otherwise provided by this Code or regulation of the city planning commission, in respect to approval of plats, it shall be the general policy of the city to finance construction by the city of sanitary sewer improvements by a sanitary sewer improvement charge paid at the time of connection to the public sanitary sewer system. For properties located within the city, the sanitary sewer improvement charge will be imposed and collected by special assessment or single lot assessment levied in accordance with

Chapter 13. Provided, that the city may choose to create a special assessment district or impose a single lot assessment and collect such assessment at the time of construction in advance of connection. If that is done, the sanitary sewer improvement charge at the time of connection shall be adjusted as provided in subsection 1:278(6) or (9).

**1:273. Petitions; private party developments.**

- (1) The owners of property within the city may apply to the city council, by petition, for the construction of any local public improvement, water main improvement or sanitary sewer improvement, which petition shall be submitted on forms approved by the city administrator, and furnished by the city clerk. The filing of any such petition shall be advisory only, and the city shall not be required to construct any improvement petitioned for, and the city may proceed to construct any local public improvement, water main improvement or sanitary sewer improvement without a petition therefor having been filed.
  
- (2) As provided in section 1:277, any property owner may undertake the construction of a local public improvement, water main improvement or sanitary sewer improvement, provided it is done in accordance with the provisions of this Code and pursuant to the terms of a written agreement with the City.

**1:274. Division of costs.**

In the interest of uniformity, it is declared to be the policy of the city to require the owner of property specially benefiting to defray the cost of local public improvements, water main improvements and sanitary sewer improvements in the manner herein provided. For purposes of this chapter such costs are referred to as "facilities costs." ~~If any land owned by the city, except streets and alleys, lies within the benefit district for any local public improvement, an amount equal to that which such land would be assessed for such improvement if the same were privately owned shall be included as a part of the city's share, except that city-owned park property shall not be charged for sanitary sewer or water main and connection improvements, and the balance of t~~The cost of such local public improvement shall be divided as follows:

|    | Type of Improvement | City's Share | Benefit District's Share<br>Facilities Costs |
|----|---------------------|--------------|--|
| 1. | Sidewalks           | None         | 100%   |

|    |  |  |   |
|----|--|--|---|
| 2. | Water mains <del>and connections</del> | The sum by which the cost of construction of the improvement exceeds the <del>benefit district share</del> <u>facilities costs</u> . | Cost of water <del>facilities connecting mains and appurtenances necessary to serve</del> <u>the district with the</u> existing water distribution system plus cost of water mains <del>and connections</del> within the district. For residential units for which construction is begun on or after January 21, 2004, this cost shall be determined by multiplying the Water Main Improvement Charge Fixed Charge by the <u>number of residential units of benefit</u> , as determined by the city assessor.                       |
| 3. | Sanitary sewers                        | The sum by which the cost of construction of the improvement exceeds the <del>benefit district share</del> <u>facilities costs</u> . | Cost of sanitary sewer <u>mains and appurtenances necessary to serve</u> <del>facilities connecting</del> the district with <u>the existing</u> sanitary sewer distribution system plus cost of sanitary sewers and connections within the district. For residential units for which construction is begun on or after January 21, 2004, this cost shall be determined by multiplying the Sanitary Sewer Improvement Charge Fixed Charge by the <u>number of residential units of benefit</u> , as determined by the city assessor. |

|    |                              |  |   |
|----|------------------------------|--|---|
| 4. | Storm sewers                 | The sum by which the cost of construction of the improvement exceeds the benefit-district share. <u>None</u> | (1) The cost of all lateral storm sewers, manholes, and extras within the benefit-district whether laid within streets, intersections, or on private property. (2) The proportional cost of storm sewers needed to service the benefit-district whether such storm sewers are to be constructed as a part of the public improvement or are already in existence and whether or not such storm sewers are within or outside the benefit-district, as determined by the City <u>city Council</u> <del>council</del> . |
| 5. | Street grading and graveling | None   | 100%  |
| 6. | Street paving                | None   | 100%  |
| 7. | Curb and gutters             | None   | 100%  |
| 8. | Street lights                | None   | 100%  |

In any case where the division of costs herein established does not, as determined by the city council, accurately reflect the benefit to the city at large and the private benefit, such other division as shall be equitable may be adopted by the council.

The Water Main Improvement Charge Fixed Charge and the Sanitary Sewer Improvement Charge Fixed Charge will be set by City-city Council-council annually by resolution, calculated as provided for in Section-section 1:271(610) and (713), respectively.

**1:275. Special assessment, single lot assessment, water main, sanitary sewer and local public improvement charge installments.**

(1) When the city council shall confirm any special assessment for any local public improvement, it shall specify whether such assessment shall be payable in installments and if so payable, the number of installments. It shall be the policy of the city to permit the payment of special assessments and single lot assessments for local public improvements, and water main and sanitary sewer improvement charges as hereafter mentioned, to be paid in installments.

(2) When the city council shall confirm any special assessment or single lot assessment for any local public improvement, it shall specify whether such assessment shall be payable in installments and if so payable, the number of installments. and, unless otherwise specified by the city council in the resolution confirming any assessment, the number of installments in which each assessment shall be payable as follows, based on the calculated amount of all the special assessments, single lot assessments and water main and sanitary sewer improvement charges for the property at the time for improvements listed in section 1:274:

| Type of Improvement |  | Number of Installments |
|---------------------|--|------------------------|
| 1.                  | Sidewalks  | -6                     |
| 2.                  | Water mains and connections                              | -6                     |
| 3.                  | Storm sewers   | -6                     |
| 4.                  | Lateral sanitary sewers                                  | -6                     |
| 5.                  | Street grading and graveling (included in street paving) | -6                     |
| 6.                  | Street paving (except concrete)                          | -6                     |
| 7.                  | Street paving (concrete)                                 | 10                     |
| 8.                  | Curbs and gutters  | -6                     |
| 9.                  | Street lights  | -6                     |

| <u>Amount of improvement charge</u>         | <u>Number of years for installments</u> |
|---|---|
| <u>Up to 1,200</u>                          | <u>1 year</u>                           |
| <u>Greater than \$1,200 up to \$2,400</u>   | <u>2 years</u>                          |
| <u>Greater than \$2,400 up to \$3,600</u>   | <u>3 years</u>                          |
| <u>Greater than \$3,600 up to \$4,800</u>   | <u>4 years</u>                          |
| <u>Greater than \$4,800 up to \$6,000</u>   | <u>5 years</u>                          |
| <u>Greater than \$6,000 up to \$7,200</u>   | <u>6 years</u>                          |
| <u>Greater than \$7,200 up to \$8,400</u>   | <u>7 years</u>                          |
| <u>Greater than \$8,400 up to \$9,600</u>   | <u>8 years</u>                          |
| <u>Greater than \$9,600 up to \$10,800</u>  | <u>9 years</u>                          |
| <u>Greater than \$10,800 up to \$12,000</u> | <u>10 years</u>                         |
| <u>Greater than \$12,000 up to \$13,200</u> | <u>11 years</u>                         |



|   |                 |
|---|-----------------|
| <u>Greater than \$13,200 up to \$14,400</u> | <u>12 years</u> |
| <u>Greater than \$14,400 up to \$15,600</u> | <u>13 years</u> |
| <u>Greater than \$15,600 up to \$16,800</u> | <u>14 years</u> |
| <u>Greater than \$16,800</u>                | <u>15 years</u> |

(3) The local public improvement charges provided for in section 1:279, below, are payable in installments as set forth in (2), above, unless otherwise specified by the city council by resolution.

(4) Water main and sanitary sewer improvement charges are payable in installments as set forth in (2), above; provided, that city council may, by resolution, approve a different number of installments for water main and sewer main improvement charges generally, or for the water main improvement charge and/or sanitary sewer improvement charge for a particular property.

Section 2. That Sections 1:277 through 1:278 of Chapter 12 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:277. Construction by agreement.**

(1) The owner or owners of any ten or more contiguous parcel(s) of land within the city, may petition the city council public services area for the construction of any local public improvement, water main improvement or sanitary sewer improvement to serve that land where the cost of such construction is to be privately financed. Such petitions shall be in a form approved by the city administrator and shall be supplied by the city clerk. For the purposes of Chapter 12, the land served and the development on the land served are referred to individually or collectively as the "benefited development." The public services area administrator is authorized to furnish such owner or owners of land with estimates of the cost of such construction or any part thereof, if performed by the city. Every such petition shall be in writing and shall indicate whether the petitioners desire to construct such facilities themselves or to contract with the city to perform such work. The city council shall by resolution grant or deny said petition within a reasonable time and every such resolution shall specify whether the petitioners are authorized to construct said improvements themselves or authorized only to contract with the city for the construction thereof, or authorized either to construct the same themselves or contract with the city for such construction at their option. Whenever any person or persons shall be authorized to install any local public improvement privately, he shall file a bond in an amount to be specified by the public services area administrator and in a form to be approved by the city attorney, conditioned on the prompt completion of the work and the observance of all provisions of this

Code and regulations of the city pertaining thereto, and the payment of the expense to the city in connection therewith. If any bond shall be required by any other provisions of this Code pertaining to such construction, the bond herein required, if also conditioned as required by each such other provision of this Code, shall be in lieu of any such other bond or bonds. ~~If any owner or owners shall enter into a contract with the city for the performance of any such work, such contract shall be in a form approved by the city attorney and the city administrator, and such contract shall in all cases require such advance payment and progress payments as shall be recommended by the city administrator and approved by the city council. The public services area administrator and the city administrator are authorized to execute contracts herein authorized on behalf of the city for all local public improvements.~~

(2) For water main improvements and sanitary sewer improvements that are privately financed and constructed and dedicated to the city as provided in this section 1:277, water main improvement charges and sanitary sewer improvement charges will be imposed on each property within the benefited development at the time of connection by the property to the public water system or public sanitary sewer system as set forth in this section 1:277.

- A. The owner or owners must agree that upon completion of construction of the water main or sanitary sewer improvement, the improvement shall be dedicated to the city.
- B. The city will accept the improvement on the following conditions:
  - 1. The city determines that the improvement has been built in accordance with city standards to the satisfaction of the city.
  - 2. The owner or owners provide the city with the documented costs for each improvement. For purposes of this paragraph, "costs" shall mean the costs of design, permitting and construction (e.g., materials, labor, inspection, testing, as-building). For purposes of the allocation of charges to the properties or units within the benefited development, these costs shall be the facilities costs that are divided and allocated in accordance with section 1:274.
  - 3. The owner or owners confirm with the city the number of properties or units within the benefited development that are intended to be served by each improvement or dedicated segment thereof.

(3) Except as otherwise provided in subsections 1:277(6), below, at the time of connection of a residential unit to a water main improvement or a sanitary sewer improvement, the owner or owners, or the purchaser of the property, shall pay the city the applicable improvement charge fixed charges per connection for the water main improvements and the sanitary sewer improvements in effect at the time of connection for water and for sanitary sewer, respectively, as provided

for in Chapter 12 of the Ann Arbor City Code, including the annual adjustments thereto.

(4) That, except as otherwise provided in subsections 1:277(7), below, at the time of connection by a unit within the benefited development other than a residential unit to the water and sanitary sewer facilities, the owner or owners, or the purchaser of the unit shall pay the city the allocated improvement charges for the water main improvements and the sanitary sewer improvements at the time of connection for water and for sanitary sewer, respectively, as provided for in Chapter 12. For purposes of this section, each such charge is referred to as the "allocated improvement charge." The initial amount of the allocated improvement charge shall be established as the per-unit documented costs, based on an allocation among units within the benefited development. Thereafter, as provided for in subsection 1:278(3), the allocated improvement charges will be adjusted annually on or after January 1 of each year using the most recently published Handy-Whitman Index for "Distribution Plant Mains, Average All Types" for water main improvements and using the most recently published "Engineering News Record-Construction Cost Index" for sanitary sewer improvements. If the number or type of units to be served within the benefited development changes from the number and type used for the initial allocation, the allocated improvement charge will be recalculated accordingly and brought forward by the annual adjustments.

(5) For purposes of the calculations required in subsections 1:277(6), (7) and (12), below, and 1:278(8), the following definitions apply:

A. "AMC<sub>c</sub>" means the non-residential applied meter calculation in the year of connection, based on the annual water use and return sewer flow as calculated in the City's published methodology for sanitary sewer mitigation for un-peaked flows and application of the City's rate schedule for the customer class of the unit less the system unit avoided cost.

B. "AMC<sub>r</sub>" means the residential applied meter calculation in the year of connection by size, calculated as follows:

$$\text{AMC}_r = 4 \text{ times (calculated bill for mean quarterly usage Y - system unit avoided cost times Y);}$$

The residential applied meter calculation shall be applied only to connections for residential units.

C. The AMC<sub>r</sub> by meter size will be calculated for the calendar year and will be based on the fiscal year ending the prior June 30. The AMC<sub>r</sub> by meter size will be determined by the city by January 10 of each year and made available upon request.

- D. “IC<sub>c</sub>” means the calculated improvement charge for a unit within a benefited development upon the date of connection by the unit during the first ten (10) years after the date of acceptance by the city of the dedication of the facilities in question (water or sanitary sewer), or after the date of acceptance by the city of the dedication of an identified portion of the facilities in question (water or sanitary sewer).
- E. “IC<sub>f</sub>” means the IC<sub>i</sub> cost forwarded by the appropriate escalation method (Handy-Whitman Index for “Distribution Plant Mains, Average All Types” for water main improvements and “Engineering News Record-Construction Cost Index” for sanitary sewer improvements).
- F. “IC<sub>j</sub>” means the improvement charge established initially for a unit within the development at the time of construction; provided, that if the number of units to be served within the development changes from the initial calculation, the IC<sub>j</sub> will be recalculated, based on the change in the number of units. For residential units, the IC<sub>j</sub> is the applicable improvement charge fixed charge in effect on the date the water or sanitary sewer facilities to which connection is made were dedicated to and accepted by the city.
- G. “IC<sub>oc</sub>” means the calculated improvement charge for a non-residential unit that (i) is outside a benefited development upon the date of connection by the unit to water main or sanitary sewer system improvements built in accordance with section 1:277, or (ii) is not a served property but is connecting to water main or sanitary sewer system improvements constructed by the city as provided in subsection 1:278(8).
- H. “System unit avoided cost” for the water system means the cost per hundred cubic feet of processing and delivery of water; “system unit avoided cost” for the sanitary system means the cost per hundred cubic feet of collection and treatment of sewage.
- I. “X” means the number of years of applied escalation and is calculated as year of connection minus year of construction minus 2;
- J. “Y” means the calculated mean quarterly water usage for a similar sized residential meter. This mean usage is calculated based on the actual usages of all similarly sized residential meters in the systems.

(6) That for a period of ten (10) years, or for a period of time agreed to by the city by written agreement approved by city council, after the date of acceptance by the city of the dedication of the water facilities or the sanitary sewer facilities, or after the date of acceptance by the city of the dedication of an identified portion of the water or sanitary sewer facilities, in no event will the calculated improvement charge collected for a residential unit within a benefited development at the time of connection (IC<sub>c</sub>) exceed the lesser of either:

- A. the cost forwarded initial improvement charge (IC<sub>f</sub>), or

B. the initial improvement charge (IC<sub>i</sub>), plus the residential applied meter calculation (AMC<sub>r</sub>) multiplied by the number of years of applied escalation (X),

from which the initial improvement charge (IC<sub>i</sub>) then is subtracted:

$$\underline{IC_c = \min(IC_f ; IC_i + X[AMC_r]) - IC_i}$$

Provided, that the calculated amount shall not be less than zero dollars.

(7) That for a period of ten (10) years, or for a period of time agreed to by the city by written agreement approved by city council, after the date of acceptance by the city of the dedication of the water facilities or the sanitary sewer facilities, or after the date of acceptance by the city of the dedication of an identified portion of the water or sanitary sewer facilities, in no event will the calculated improvement charge collected at the time of connection (IC<sub>c</sub>) for a parcel within a benefited development other than a residential unit exceed the lesser of either:

A. the cost forwarded initial improvement charge (IC<sub>f</sub>), or

B. the initial improvement charge (IC<sub>i</sub>), plus the non-residential applied meter calculation (AMC<sub>c</sub>) multiplied by the number of years of applied escalation (X),

from which the initial improvement charge (IC<sub>i</sub>) then is subtracted:

$$\underline{IC_c = \min(IC_f ; IC_i + X[AMC_c]) - IC_i}$$

Provided, that the calculated amount shall not be less than zero dollars.

(8) The foregoing calculations, including the subtraction of the initial improvement charge (IC<sub>i</sub>), recognize and take into account the owner or owners' costs and contribution to construct and install the water main or sanitary sewer improvement that is dedicated to the city and the city will not pay the owner or owners any additional compensation or reimbursement for the water main or sanitary sewer improvement.

(9) The city will not pay the owner or owners, and the owner or owners are not entitled to, any interest on construction costs.

(10) The owner's or owners' construction costs will not be brought forward or otherwise altered according to any index.

(11) The improvement charge calculations in subsections 1:277(6) and (7), above, will not apply to any property or unit that is connected to water or sanitary sewer more than ten (10) years after the dedication and acceptance by

the city of the water main or sanitary sewer improvement or identified portion thereof to which the property or unit connects. At that time, the provisions in subsections 1:277(3) and (4), above, will govern the calculation of the applicable water main or sanitary sewer improvement charge.

(12) For a non-residential unit outside the benefited development that connects to a water main or sanitary sewer improvement or identified portion thereof that was built as provided in this section 1:277, the improvement charge shall be calculated as the non-residential applied meter calculation (AMC<sub>c</sub>) multiplied by the number of years of applied escalation (X):

$$IC_{oc} = (X+2)(AMC_c)$$

**1:278. Water main and sanitary sewer improvement improvement charges for properties newly connected to existing water or sanitary sewer mains; adjustment of water main and sanitary sewer improvement charges; properties newly annexed.**

~~(1) An improvement charge shall be levied against a property newly annexed to the city to provide the property's fair share of the cost of improvements which benefit such property, which costs were financed by special assessment and for which the city was charged a "city's share" as defined in section 1:274 of this chapter; or for which costs the city became otherwise obligated. The improvement charge shall be in an amount to be determined by a City Council resolution to cover the property's pro rata share of the adjusted amount which the city paid as a "city's share" or became otherwise obligated to pay, for such improvements.~~Reserved.

~~(2) Except as provided in section 1:278(5), For residential water main and residential sanitary sewer improvement projects for which construction is begun on or after January 21, 2004, the water main improvement charge and sanitary sewer improvement charge for the a residential property will be based on the current fixed charge for such improvement as established pursuant to ~~Section~~ section 1:274, as adjusted in accordance with section 1:278(3), 1:278(4) or 1:277, and subject to offset if appropriate in accordance with section 1:278(6).~~

~~(3) Except for residential water main and residential sanitary sewer improvement projects for which construction was begun prior to January 21, 2004, a~~All improvement charges~~water main improvement charges and sanitary sewer improvement charges~~ shall be adjusted to be brought current. For water main improvement charges, including Water Main Improvement Charge Fixed Charges, the ~~fixed~~ charges will be adjusted annually on or after January 1 of each year using the most recently published Handy-Whitman Index for "Distribution Plant Mains, Average All Types." For ~~all other improvement charges,~~ sanitary sewer improvement charges, including Sanitary Sewer Improvement Charge Fixed Charges, the charges will be adjusted annually on or after January

1 of each year using the most recently published "Engineering News Record-Construction Cost Index." The water main improvement charges, including Water Main Improvement Charge Fixed Charges, and the sanitary sewer improvement charges, including Sanitary Sewer Improvement Charge Fixed Charges, shall be subject to offset if appropriate in accordance with section 1:278(6).

(4) The water main and sanitary sewer improvement charges for residential water main and residential sanitary sewer improvement projects for which construction was begun before January 21, 2004, and for which the connection is made on or after May 15, 2005 or for which connection was made prior to May 15, 2005 but said water main and sanitary sewer improvement charges were not paid prior to May 15, 2005, shall be converted to the Water Main Improvement Charge Fixed Charges and to the Sanitary Sewer Improvement Charge Fixed Charges then in effect. Those fixed charges will be adjusted annually on or after January 1 of each year in the manner provided for in ~~Section~~ section 1:278(3), and shall be subject to offset if appropriate in accordance with section 1:278(6).

(5) The water main and sanitary sewer improvement charges for residential water main and residential sanitary sewer improvement projects for which construction was begun before January 21, 2004, for which the connection was made prior to May 15, 2005, and for which the improvement charge either was paid prior to May 15, 2005, or was obligated by levy or agreement prior to May 15, 2005, to be paid in installments, are not subject to conversion.

(6) For a residential parcel connecting for the first time to an existing water main or sanitary sewer improvement, the Water Main Improvement Charge Fixed Charge or Sanitary Sewer Improvement Charge Fixed Charge shall be calculated and adjusted as set forth below. This calculation and adjustment shall be done for all residential properties in this situation, regardless of whether the property was vacant at the time the water main or sanitary sewer improvement was constructed and remained vacant thereafter, was created as a vacant parcel by the split of a parcel on which a structure that is connected to the public water system or public sewer system is located, or is connected for the first time for some other reason.

A. The Water Main Improvement Charge Fixed Charge or the Sanitary Sewer Improvement Charge Fixed Charge in effect at the time of connection shall apply.

B. If construction of the water main or sanitary sewer improvement to which connection is being made was begun before January 21, 2004, and the property was in the city as of May 15, 2005, the following offset calculation shall be done, except that if connection is made on or before December 31, 2007, the offset shall be 100%:

1. The date the water main or sanitary sewer improvement was available for service shall be determined. For residential properties to which the Water Main Improvement Charge Fixed Charge or Sanitary Sewer Improvement Charge Fixed Charge is applied, the date of construction shall be identified by calendar decade as follows:

|                                |
|--------------------------------|
| <u>1900 – 1909</u>             |
| <u>1910 – 1919</u>             |
| <u>1920 – 1929</u>             |
| <u>1930 – 1939</u>             |
| <u>1940 – 1949</u>             |
| <u>1950 – 1959</u>             |
| <u>1960 – 1969</u>             |
| <u>1970 – 1979</u>             |
| <u>1980 – 1989</u>             |
| <u>1990 – 1999</u>             |
| <u>2000 – January 20, 2004</u> |

2. Using the most recently published Handy-Whitman Index for "Distribution Plant Mains, Average All Types" for the water main improvements, and using the "Engineering News Record-Construction Cost Index" for the sanitary sewer improvements, an offset amount against the current Water Main or Sanitary Sewer Improvement Charge Fixed Charge shall be calculated by taking the current charge to the year of construction of the water main or sanitary sewer improvement. For water main and sanitary sewer improvements for which the date of construction is identified by decade, the calculation will take the charge to the last year of the decade. The amount of the offset will then be deducted from the current Water Main or Sanitary Sewer Improvement Charge Fixed Charge and the net amount will be the water main or sanitary sewer improvement charge that is due at the time of connection.

3. The amount of the offset for each of the decades of construction specified in paragraph 1:278(6)B.1 shall be calculated on an annual basis at the time of or immediately following the adjustment of amount of the fixed charges for residential properties as provided in subsection 1:278(3).

C. If construction of the water main or sanitary sewer improvement to which connection is being made was begun on or after January 21, 2004, and a water or sanitary sewer improvement charge, special assessment or single lot assessment was imposed on or assessed against the property (or against the unsplit property that was split to create the parcel) to finance the water main or sanitary sewer improvement, the



following calculation shall be done:

1. The year in which the water main or sanitary sewer improvement was constructed shall be determined.

2. Using the most recently published Handy-Whitman Index for "Distribution Plant Mains, Average All Types" for the water main improvements, and using the "Engineering News Record-Construction Cost Index" for the sanitary sewer improvements, an offset amount against the current water main or sanitary sewer improvement charge shall be calculated by taking the current fixed charge to the year of construction of the water main or sanitary sewer improvement. The amount of the offset will then be deducted from the current Water Main or Sanitary Sewer Improvement Charge Fixed Charge and the net amount will be the water main or sanitary sewer improvement charge that is due at the time of connection.

3. The amount of the offset for each of year from 2004 forward shall be calculated on an annual basis at the time of or immediately following the adjustment of amount of the improvement charge fixed charges for residential properties as provided in section 1:278(3).

(7) For water main and sanitary sewer improvement projects constructed by the city that serve one or more non-residential properties, the city will identify at the time of construction all the properties served by the improvement, whether or not the properties connect at the time of connection. For the purposes of Chapter 12, the properties served and the developments on the properties served are referred to as a "served property" or as "served properties." The water main improvement charge and sanitary sewer improvement charge for each served property will be charged to the property at the time of connection in accordance with chapters 12, 13 and 27, provided that the city may choose to collect the water main improvement charge or sanitary sewer improvement charge at the time of construction of the improvement from a served property that is vacant or otherwise not connecting to the improvement by including the property in a special assessment district or by imposing the charge on the property by means of a single lot assessment at the time of construction of the improvement. The water main improvement charge or sanitary sewer improvement charge for a served property at the time of connection will be as established pursuant to section 1:274 and adjusted in accordance with section 1:278(3), and shall be subject to offset if appropriate as provided in section 1:278(9).

(8) For a non-residential parcel connecting for the first time to an existing water main or sanitary sewer improvement, the water main improvement

charge or sanitary sewer improvement charge shall be calculated and adjusted as set forth below. This calculation and adjustment shall be done for all non-residential properties in this situation, regardless of whether the property was vacant at the time the water main or sanitary sewer improvement was constructed and remained vacant thereafter, was created as a vacant parcel by the split of a parcel on which a structure that is connected to the public water system or public sewer system is located, or is connected for the first time for some other reason.

A. If the property is a served property for the improvement to which connection is made and did not pay a water main improvement charge or sanitary sewer improvement charge as part of a special assessment district or as a single lot assessment at the time the improvement was constructed, the water main improvement charge or sanitary sewer improvement charge at the time of connection will be as established pursuant to section 1:274 and adjusted in accordance with section 1:278(3).

B. If the property is a served property for the improvement to which connection is made and previously paid a water main improvement charge or sanitary sewer improvement charge as part of a special assessment district or as a single lot assessment at the time the improvement was constructed, the water main improvement charge or sanitary sewer improvement charge at the time of connection will be as established pursuant to section 1:274 and adjusted in accordance with section 1:278(3), and shall be subject to offset if appropriate as provided in section 1:278(9).

C. If the property is not a served property for an improvement constructed by the city and to which connection is made, and is not a property within a benefited development for which the improvement was constructed and to which connection is made, the connection charge shall be calculated as the non-residential applied meter calculation (AMC<sub>c</sub>) multiplied by the number of years of applied escalation (X):

$$\underline{IC_{oc}} = (X+2)(AMC_c)$$

(9) If a property is a served property for the improvement to which connection is made and previously paid a water main improvement charge or sanitary sewer improvement charge as part of a special assessment district or as a single lot assessment at the time the improvement was constructed, the water main improvement charge or sanitary sewer improvement charge at the time of connection will be subject to an offset, calculated and applied in accordance with this subsection. Using the most recently published Handy-Whitman Index for "Distribution Plant Mains, Average All Types" for the water main improvements, and using the "Engineering News Record-Construction Cost Index" for the

sanitary sewer improvements, an offset amount against the current water main or sanitary sewer improvement charge shall be calculated by taking the current charge to the year of construction of the water main or sanitary sewer improvement. The amount of the offset will then be deducted from the current water main or sanitary sewer improvement charge and the net amount will be the water main or sanitary sewer improvement charge that is due at the time of connection.

(510) If a parcel newly annexed to the city has previously connected to the city's water system or sanitary sewer system, has not paid the applicable water main or sanitary sewer improvement charges, and the owner or a prior owner has not entered into an agreement to pay the water main or sanitary sewer improvement charges, the amount of the water main and sanitary sewer improvement charges shall be levied against the parcel. If the water main improvement charge or if the sanitary sewer improvement charge for the parcel is not a Water Main Improvement Charge Fixed Charge or Sanitary Sewer Improvement Charge Fixed Charge, respectively, A city council shall adopt a resolution determining the water main and sanitary sewer improvement charges to be levied. The resolution levying the improvement charges shall be promptly recorded in the office of the Register of Deeds of Washtenaw County, Michigan. The improvement charges shall become payable at a time to be fixed by council resolution, and the City city Council council may, by resolution, permit the payment of said charges to be made in installments over a six-year period as provided in section 1:275, or other period. City Council council shall determine the rate of interest to be charged thereon, not to exceed 1% per annum above the average interest rate of any bonds issued to finance the improvements. If bonds were not issued to finance the improvements, the interest to be charged thereon shall not exceed 9% per annum. If the owner or a prior owner of the parcel entered into an agreement with the city prior to annexation for payment of the water main or sanitary sewer improvement charges, the balance still due under the agreement shall become a single lot assessment against the parcel as of the date of annexation and payments shall be made or continue to be made as provided for in the agreement until the date of annexation.

(611) Said water main and sanitary sewer improvement charges, including any part thereof deferred as to payment, shall, from the date of the improvement charge resolution approved by City city Council council, constitute a lien upon the respective lots or parcels of land annexed 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 city taxes and shall include accrued interest and penalties. When any such improvement charge, or an installment thereof when divided into installments, shall have been due and unpaid for more than 30 days on the first day of September in any year, the same shall be reported by the treasurer to the assessor, and such amounts, together with a charge of 5% of the amount of the improvement charge or installment thereof, and unpaid interest shall be added to

the December tax roll. If the owner of the lot or parcel entered into an agreement with the city prior to annexation for payment of the water main or sanitary sewer improvement charges, the lien created by that agreement shall continue until the date of annexation. On the date of annexation, the water main and sanitary sewer improvement charges shall become single lot assessments against the property and the lien shall be of the same character and effect as the lien created for city taxes and shall include accrued interest and penalties.

Section 3. That a new Section 1:279 be added to Chapter 12 of Title I of the Code of the City of Ann Arbor to read as follows:

**1:279. Local public improvement charges; adjustment of local public improvement charges.**

(1) A local public improvement charge shall be levied against a property newly annexed to the city to provide the property's fair share of the cost of local public improvements which benefit such property, which costs were financed by special assessment and for which the city was charged a "city's share" as defined in section 1:274 of this chapter; or for which costs the city became otherwise obligated. The local public improvement charge shall be in an amount to be determined by a city council resolution to cover the property's pro rata share of the adjusted amount which the city paid as a "city's share" or became otherwise obligated to pay, for such local public improvements, adjusted as provided in section 1:279(2) to be brought current.

(2) The local public improvement charges shall be adjusted to be brought current using the most recently published "Engineering News Record-Construction Cost Index."

(3) A resolution determining the charge to be levied shall be promptly recorded in the office of the Register of Deeds of Washtenaw County, Michigan. The local public improvement charge shall become payable at a time to be fixed by council resolution, and the city council may, by resolution, permit the payment of said charges to be made in installments over a period of time as provided for in section 1:275(2). City council shall determine the rate of interest to be charged thereon, not to exceed 1% per annum above the average interest rate of any bonds issued to finance the improvements. If bonds were not issued to finance the improvements, the interest to be charged thereon shall not exceed 9% per annum.

(4) Said local public improvement charges, including any part thereof deferred as to payment, shall, from the date of the improvement charge resolution approved by city council, constitute a lien upon the respective lots or parcels of land annexed 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 city taxes and shall include accrued interest and penalties. When any such local public improvement charge, or an installment thereof when divided into installments, shall have been due and unpaid for more than 30 days on the first day of September in any year, the same shall be reported by the treasurer to the assessor, and such amounts, together with a charge of 5% of the amount of the improvement charge or installment thereof, and unpaid interest shall be added to the December tax roll.

Section 4. That Section 1:281 of Chapter 13 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:281. Definitions.**

The following terms as used in this Chapter shall have the meanings defined below.

- (1) The term "improvement" shall mean any public improvement, including water main and sanitary sewer improvements, any part of the cost of which is to be assessed against 1 or more lots or parcels of land to be especially benefitted thereby, in proportion to the benefit to be derived therefrom.
- (2) The term "cost" when referring to the cost on any improvement, shall include the cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing and construction and all other costs incident to the making of the improvement, the special assessments therefor and the financing thereof.
- (3) The term "tax parcel" shall mean any property, real or personal, subject to property tax or special assessment under the laws of the State of Michigan or the City Code for the City of Ann Arbor.
- (4) The terms "residential" and "residential unit" shall mean a one or two-family residential structure. All other residential structures shall be considered commercial structures or commercial units.

Section 5. That Section 1:283 of Chapter 13 of Title I of the Code of the City of Ann Arbor be deleted as follows:

**1:283. Special assessments. Reserved.**

~~In order to permit adequate scheduling, grouping and financing of improvements, all petitions shall be received 12 months in advance of the estimated construction dates. Cut-off dates for review and approval of petitions~~

will be January 1 and August 1 of each year.

Section 5. That Section 1:284 of Chapter 13 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:284. Preliminary proceedings.**

(1) Except for improvements that are water main or sanitary sewer improvements that serve only residential properties, before the ~~City Council~~city council will determine to make any improvement any part of the cost of which is to be defrayed by special assessment, the City Administrator shall prepare, or cause to be prepared, plans and specifications therefor and an estimate of the cost thereof, and file the same with the City Clerk together with the Administrator's 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 City, the number of installments in which assessment may be paid and the land which should be included in the special assessment district. For water main and sanitary sewer improvements, the share of the cost to be paid by special assessment by ~~the residential properties in the district~~ shall be calculated in accordance with ~~Sections sections~~ sections 1:271, and 1:274 and 1:278 of Chapter chapter 12. After the report is filed with the Clerk, it shall be presented to the ~~Council~~council and the report shall be available for public examination. Whenever any land which should be included in the special assessment district may not be assessed because it is owned by a public agency, a written agreement shall be reached whenever possible providing for the payment of the agency's benefiting share of the cost of the improvement. This agreement, or advice that agreement cannot be reached, shall be presented to the ~~Council~~council prior to the adoption by ~~Council~~council of the resolution provided for by section 1:286 of this chapter.

(2) For water main and sanitary sewer improvements that serve only residential properties, before the ~~City Council~~city council will determine to make an improvement that will be defrayed entirely by special assessment, the City Administrator shall prepare, or cause to be prepared, plans and specifications therefor and file the same with the City Clerk together with the Administrator's recommendation that the entire cost should be paid by special assessment, the number of installments in which assessment may be paid and the land which should be included in the special assessment district. The share of the cost to be paid by special assessment by the residential properties in the district shall be calculated in accordance with ~~Sections sections~~ sections 1:271, and 1:274 and 1:278 of Chapter chapter 12. After the report is filed with the Clerk, it shall be presented to the ~~Council~~city council and the report shall be available for public examination.

Section 6. That Section 1:286 of Chapter 13 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:286. Council determination.**

(1) Except for improvements that are water main or sanitary sewer improvements that serve only residential properties, ~~After~~ after the report is presented to the ~~City~~ city ~~Council~~ council, the ~~City~~ city ~~Council~~ 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 to the property. By resolution the ~~City~~ city ~~Council~~ council shall approve the plans and specifications for the improvement; determine the estimated cost of it; determine what proportion of the cost shall be paid by special assessment upon the property especially benefited and what part, if any, shall be a general obligation of the ~~City~~ city; designate the district or land and tax parcels upon which special assessments shall be levied; and direct the Assessor to prepare a special assessment roll in accordance with the ~~City~~ city ~~Council's~~ council's determination. For water main and sanitary sewer improvements, the share of the cost to be paid by special assessment by the residential properties in the district shall be calculated in accordance with ~~Sections~~ sections ~~1:271, and 1:274 and 1:278~~ of Chapter 12.

(2) For improvements that are water main or sanitary sewer improvements that serve only residential properties, after the report is presented to the ~~City~~ city ~~Council~~ council, the ~~City~~ city ~~Council~~ council may, by resolution, approve the plans and specifications, determine to make the improvement and to defray the cost of the improvement by special assessment upon the property especially benefited in proportion to the benefits to the property. By resolution the ~~City~~ city ~~Council~~ council shall approve the plans and specifications for the improvement; determine that the cost shall be paid by special assessment upon the property especially benefited; designate the district or land and tax parcels upon which special assessments shall be levied; and direct the Assessor to prepare a special assessment roll in accordance with the ~~City~~ city ~~Council's~~ council's determination. For water main and sanitary sewer improvements, the share of the cost to be paid by special assessment by the residential properties in the district shall be calculated in accordance with ~~Sections~~ sections ~~1:271, and 1:274 and 1:278~~ of Chapter 12.

Section 7. That Section 1:292 of Chapter 13 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:292. Assessing single lots or tax parcels.**

Except for water main or sanitary sewer improvements, when any

expense shall have been incurred by the ~~City-city~~ upon or in respect to any single lot or tax parcel, which expense is chargeable against it and the owner of it under the provisions of the ~~Chartercharter~~, this ~~Codecode~~, or law of the State of Michigan and is not of that class required to be pro-rated among several lots and tax parcels in a special assessment district, an account of the labor, material or services for which the expense was incurred, verified by the ~~Controllerc~~chief financial officer, with a description of the lot or tax parcel and the name of the owner, if known, shall be reported to the City Treasurer who shall immediately charge and bill the owner, if known. For water main or sanitary sewer improvements, the cost to be assessed against the single lot or tax parcel shall be calculated in accordance with ~~Sections-sections~~ 1:271, and 1:274 and 1:278 of ~~Chapter-chapter~~ 12. The bill shall be sent by first class mail to the owner of the lot or tax parcel to be assessed and the bill shall notify the owner of the time of the meeting of the ~~City-Councilcity council~~, not sooner than 30 days thereafter, when the ~~City-Councilcity council~~ will meet for the purpose of adopting a resolution placing a special assessment upon the lot or tax parcel for the charges unless the charges are paid prior to the date of the meeting. At the meeting the ~~City-Councilcity council~~ shall adopt, in accordance with section 10.4 of the Charter, a special assessment resolution covering each lot or tax parcel for which charges have not been paid in full. As many lot or tax parcels may be included in a single resolution as shall be convenient. Upon adoption of the resolution, the ~~City-Councilcity council~~ may authorize installment payments, and if installment payments are authorized, shall determine the number of installments and the rate of interest to be charged, but not to exceed 1% per annum above the average interest rate of any bonds issued to finance the improvements or the charges. Immediately after the adoption of the resolution, the City Clerk shall give notice of the lot or tax parcel owners. The notice shall be sent by first class mail to the last known addresses of the persons as shown on the assessment roll of the city, or by publication. The notice shall state the basis of the assessment, the amount, and shall give a reasonable time, not less than 30 days, within which payment shall be made to the Treasurer. In all cases where payment is not made within the time set, the fact shall be reported by the Treasurer to the Assessor, who shall charge the amounts, together with a penalty of 10% of the amounts, against the persons or lots or tax parcels chargeable, on the next tax roll. Assessments for the construction, rebuilding and repair of sidewalks shall be levied under the provisions of this section, when built by the City under the provisions of Chapter 49, relative to sidewalks.

Section 8. That Section 1:295 of Chapter 13 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

**1:295. Due date.**

(1) Upon confirmation of any special assessment roll, the ~~Councilcouncil~~ shall determine the number of installments in which the



assessments may be paid, the due date of the first installment and the due dates of the subsequent installments of the special assessment roll if the special assessment roll is divided into more than one installment, the rate of interest to be charged on the installments, but not to exceed one percent per annum above the average interest rate of any bonds issued to finance the improvements or charges, and the date when the interest shall commence.

(2) For water main and sanitary sewer improvements, the special assessment for a property within the benefit district shall be deferred until the date when the property connects to the water system or sanitary sewer system and, at the time of connection, the amount of the special assessment shall be brought current in accordance with section 1:278(3).

Section 9. That Section 5:148 of Chapter 58 of Title V of the Code of the City of Ann Arbor be amended to read as follows:

**5:148. Improvement charges.**

Every petitioner seeking the annexation of land to the city shall be informed as to whether or not any water main, sanitary sewer or local public improvement charges will be levied against the property sought to be annexed in accordance with section 1:278 and/or section 1:279 of Chapter 12, Title I of this Code. In the event the property proposed to be annexed is subject to such improvement charges, the amount thereof shall be made known to such petitioner. Prior to the annexation to the city, the owner of such land, or the person or firm liable for the payment of such charges, shall acknowledge full knowledge thereof, and shall also consent in writing to pay the same in the amount of the applicable Water Main Improvement Charge Fixed Charge, the applicable Sanitary Sewer Improvement Charge Fixed Charge, or in accordance with ~~the a~~ resolution to be adopted by the city council pursuant to ~~said~~ section 1:278 and/or 1:279 of ~~the this~~ said code. Neither the failure to notify the petitioner of such improvement charge, nor the failure to obtain such consent to pay the same, shall invalidate an water main, sanitary sewer or local public improvement charge or such a resolution relating thereto. If the owner or a prior owner of the parcel entered into an agreement with the city prior to annexation for payment of the water main or sanitary sewer improvement charges, the balance still due under the agreement shall become a single lot assessment against the parcel as of the date of annexation. Payments shall be made or continue to be made as provided for in the agreement until the date of annexation.

Section 10. That this ordinance shall take effect on the tenth day following legal publication.