




CITY of NOVI CITY COUNCIL

**Agenda Item 6
June 9, 2008**

SUBJECT: Ordinance Review Committee recommends the Approval of Ordinance No. 08-1.11 to amend Chapter 30, "Special Assessments", Section 30-16, "Payment in Installments", and Section 30-17, "Delinquent Special Assessments", to change the penalty provision for certain delinquent payments. **First Reading**

SUBMITTING DEPARTMENT: City Manager 

CITY MANAGER APPROVAL:

The Ordinance Review Committee (ORC) met on May 22, 2008. Attached is the ordinance amendment drafted as a result of the ORC discussion. The ordinance would result in a reduction in penalty from 4% to 2% for late payments of SADs which have been funded through bond issues and where payments are received between September 1 and September 14, for any penalty on the SAD exceeding \$1,000. Effective date of the proposed ordinance is for payments for 2007 and forward.

The Finance/Treasury staff will administer this ordinance by running a special report developed by our software provider, in October and issuing refunds for those taxpayers/parcels meeting the criteria set in the ordinance.

RECOMMENDED ACTION: Ordinance Review Committee recommends the Approval of Ordinance No. 08-1.11 to amend Chapter 30, "Special Assessments", Section 30-16, "Payment in Installments", and Section 30-17, "Delinquent Special Assessments", to change the penalty provision for certain delinquent payments. **First Reading**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

SECRET
SW
WARDLE

May 16, 2008

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Thomas R. Schultz
Direct: 248-539-2847
tschultz@secretwardle.com

Clay J. Pearson, City Manager
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Re: **SAD Ordinance**
Our File No. 55142 NOV

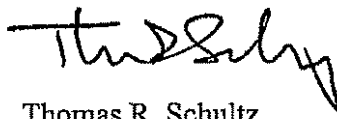
Dear Mr. Pearson:

Attached is a revised SAD ordinance amendment that addresses the proposed change discussed at the Ordinance Review Committee meeting last month, reducing the penalty amount to 2 percent for contracted SADs with bonded debt if the payment has been received at least 14 days in advance of a scheduled debt service payment or within 74 days after the due date, whichever is earlier.

I trust this will be sufficient for discussion by the Ordinance Review Committee on May 22, 2008.

If you have any questions regarding the above, please do not hesitate to call.

Very truly yours,



Thomas R. Schultz

TRS/jes
Enclosure

cc: Maryanne Cornelius, City Clerk
Kathy Smith-Roy, Finance Director

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MEMORANDUM



TO: MAYOR AND CITY COUNCIL MEMBERS
FROM: CLAY J. PEARSON *CP*
SUBJECT: CONSIDERATION TO AMEND ORDINANCE
DATE: MARCH 13, 2008

The purpose of this memorandum is to provide background for the City Council to consider amending City ordinances related to payment schedule requirements for Special Assessment Districts.

Payments for Special Assessment District liabilities due the City are assessed on the property tax bill along with the general liability upon all property owners for schools, city and county services, etc. However, in Michigan the SAD payment is primarily tied to a particular specific repayment of a local benefit (utilities, roads, etc.) that in some cases the City has either "financed itself (e.g., through the water and sewer fund or drain fund) or bonded for to provide the initial improvement. Based upon the life of the SAD, 15 years for roads and 30 years for water and sewer improvements, the liability expires. As a property tax liability, late payments for property taxes on SADs are currently assessed the same penalty for late payments for property tax liability. That is, per the ordinance and City Charter, a late penalty of 4% is assessed 62 days after the payment is due. In practical terms, this means that last year for the summer taxes, payment had to physically be with the City by August 31, 2007. Any payment received thereafter is assessed the penalty.

As a general rule, the penalty is extremely important for at least three practical and equity reasons: 1) as collection agent, the City is a fiduciary for other taxing bodies that rely upon this revenue; 2) the City itself is heavily dependent upon property tax revenue for general operations and therefore must rely upon timely payment; 3) property taxpayers must have certainty that other taxpayers are 'paying their share' on a timely basis for the same services being rendered.

The case for SAD payments that are tied specifically to bond payments is similar but has one unique factor: the payments generally are tied to making the bond debt service payments or reimbursing the fund that provided the proceeds for which the City "fronted" the expenditure. So long as the City has the money 'in the bank' well in advance of making the debt service payment, it could be viewed that the intent of the obligation has been met.

Again as a practical matter, the SAD payments can be relatively large. By this point in the reading, the City Council members may have surmised that this policy review is prompted by a case bringing the general topic to light. The managers of Twelve Mile Crossing at Fountain Walk had a \$2,787,644.45 summer property tax payment due on August 31, 2007. Of that total, approximately \$1,888,000 of the amount was due for special assessment district bond payment. The entirety of the payment was made to the City on Tuesday, September 4 through an error entirely on their part. In accordance with the law, a penalty of \$111,505.78 was assessed on September 4 which was subsequently paid.

Our Finance and Treasury department has made logical points with counterarguments of considering a change. Since at least 1988, the City has never refunded a penalty for a late payment. There is not administrative discretion nor do we seek that given the circumstances that each late payment inevitably brings. The financial staff recognizes we can look at the percentage amount for the penalty. However, the taxes are due on July 1, property owners already have the 60 day grace period for making payments. Also, the City has had experience with a large contract SAD payment not being made, and the City had to wait for the County settlement. The effective annual interest rate of the 4% in that case is 6%. We should therefore be cautious in making changes based on selected circumstances. Even with these considerations, however, I believe that the other factors noted above give cause to strongly consider options. **An alternative would be for SAD payments made after the 60 days, but before 14 days of the bond debt service payment, a 2% penalty would be imposed. Moreover, if there is a consensus to make a change it should be made effective July 1, 2008, for this fiscal year.** Such language is provided in the attached for discussion if the City Council chooses.

c: Kathy Smith-Roy
Tom Schultz

CITY CHARTER

Section 9.16. Collection fees.

All taxes paid on or before August 31 of each year shall be collected by the Treasurer without collection fee. Property taxes shall become delinquent if they remain unpaid on September 1. On September 1, the Treasurer shall add to all taxes paid thereafter a collection fee of four percent (4%) of the amount of said taxes. Such collection fee shall belong to the City and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added. The City may by ordinance, provide interest and penalties for delinquent City real and personal property taxes.

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 08-1.11

ORDINANCE CODE AMENDMENT

AN ORDINANCE TO AMEND CHAPTER 30, "SPECIAL ASSESSMENTS," SECTION 30-16, "PAYMENT IN INSTALLMENTS," AND SECTION 30-17, "DELINQUENT SPECIAL ASSESSMENTS," TO CHANGE THE APPLICATION OF THE PENALTY PROVISION FOR DELINQUENT PAYMENTS

THE CITY OF NOVI ORDAINS:

Part I. That Chapter 30, "Special Assessments," Section 30-16, "Payments in Installments," and Section 30-17, "Delinquent Special Assessments," of the City of Novi Code of Ordinances are hereby amended in its entirety to read as follows:

Sec. 30-16. Payment in installments.

- (a) The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed fifteen (15) in number for roads, bicycle paths, sidewalks and other public ways, and twenty (20) in number for utilities and other public improvements. The first installment shall be due upon confirmation of the roll or on such date as the Council may determine; and, deferred installments shall be due on an annual basis thereafter on the schedule specified by Council.
- (b) Interest shall be charged on all unpaid amounts from and after the due date specified for paying the assessment without interest. Interest shall be at a rate not to exceed eight (8) percent per annum, or such greater rate as shall be determined by the City Council. To the extent special assessment bonds are issued in anticipation of said installments, interest shall be charged as specified by Council and consistent with state statute. Interest shall commence on the due date as specified above, or sixty (60) days after the date of confirmation if the first installment is not due upon confirmation, or as set by resolution of the City Council, and shall be payable on the due date of each installment. The full amount of all or any installment, with interest accrued thereon to the date of payment, may be paid in advance of the due date thereof.

- (c) If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have sixty (60) days from the date of confirmation to pay the full amount of the assessment, or the full amount of any installments thereof, without interest or penalty. Following the sixty-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent and the same penalties shall be collected on such unpaid assessments or first installments thereof as are provided herein.
- (d) Deferred installments shall be collected with interest but without penalty until sixty (60) days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on the installments shall be collected as are provided herein.
- (e) After the Council has confirmed the roll, the City Treasurer shall notify by mail each property owner on the roll that the roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the City Treasurer to give the notice or of such owner to receive the notice shall not invalidate any special assessment roll of the City or any assessment thereon, nor excuse the payment of interest or penalties.

Sec. 30-17. Delinquent special assessments.

Any assessment or part thereof remaining unpaid on the first Monday of March following the date when the same became delinquent shall be reported as unpaid by the City Treasurer to the Council. Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual City tax roll in a column headed "Special Assessments" with a penalty of four (4) percent upon such total amount added thereto, except that, if the assessment is made pursuant to agreement and the improvement was made with bonded debt incurred by the City, the penalty amount shall be reduced to two (2) percent after the first \$1,000.00 of penalty amount, so long as payment is received at least fourteen (14) days in advance of a scheduled debt service payment or within seventy-four (74) days after the due date, whichever is earlier, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of City taxes.

Part II. Savings Clause. The amendment of Chapter 30 of the Novi Code of Ordinances does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture, or punishment, pending or incurred prior to the amendment.

Part III. Effective Date; Publication. This ordinance shall become effective fifteen (15) days after its adoption beginning with the payment for 2007 forward, and shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi, stating the date of enactment and the effective date of the ordinance, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use, and inspection at the office of the City Clerk during the hours of 8:00 a.m. to 5:00 p.m.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ____ DAY OF _____, 2008.

DAVID LANDRY - MAYOR

MARYANNE CORNELIUS - CITY CLERK

Date of Adoption: _____

Date of Publication of Notice of Adoption: _____

CERTIFICATION OF ADOPTION

I hereby certify that the foregoing is a true and complete copy of an Ordinance passed at a _____ meeting of the Novi City Council, held on the ____ day of _____, 2008

MARYANNE CORNELIUS - CITY CLERK

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