

Chapter 6 Public Works and Property; Public Improvement and Assessment Proceedings

Article 1: Public Improvement and Assessment Proceedings

Division 1: Public Convenience and Necessity Determination

§61.0101 Procedure Authorized

Before the Council adopts any resolution ordering the construction of any public improvement or the acquisition of any property for public use, or both, herein referred to as "improvement", where the cost thereof is to be paid in whole or in part by special assessments or through special assessment taxes upon lands, a public hearing may be held and a finding and determination made by the Council as provided herein that the public convenience and necessity require the same.

If such procedure is not so followed and if such finding and determination is not made pursuant thereto, the requirements otherwise prescribed by the Special Assessment Investigation Limitation and Majority Protest Act of 1931 (Div. 4 Streets and Highways Code) and Article XIII, Section 17, of the Constitution shall be complied with before any such resolution may be adopted.

(“Procedure Authorized” added 1-15-1959 by O-8042 N.S.)

§61.0102 Order to Hold Hearing — Determination of Nature of Work

The Council may order and hold a public hearing to find and determine whether the public convenience and necessity require any such improvement. Before ordering such hearing the Council shall determine in general the nature, location and extent of such proposed improvement or acquisition. Reference may be made to one or more plans, profiles, specifications, maps or plats for the description of the improvement and for all particulars relative thereto, which plans, profiles, specifications, maps, or plats shall be on file with the City Clerk or the City Engineer and open to inspection.
(“Order to Hold Hearing — Determination of Nature of Work” added 1-15-1959 by O-8042 N.S.)

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§61.0103 Description of District

The Council shall also generally define the boundaries or extent of the district or lands to be specially assessed to pay all or any part of the cost of the proposed improvement.

The district may be described by:

- (a) Stating the exterior boundaries thereof, or
- (b) Giving a description thereof according to any official or recorded map or maps.
- (c) Referring to a plat or map on file in the office of the City Clerk or City Engineer which shall indicate by a boundary line the territory to be included in the assessment district, and which shall govern for all details as to the extent of the district.

(“*Description of District*” added 1-15-1959 by O-8042 N.S.)

§61.0104 Time, Place and Notice of Hearing

The Council shall fix a time and place of public hearing on the question whether the public convenience and necessity require such improvement and shall order such hearing to be held by the Council.

The Council shall also prescribe reasonable notice of hearing to be given by publication and posting, which notice shall satisfy the minimum requirements provided by this division. In prescribing such notice reference may be made to this division for particulars.

(“*Time, Place and Notice of Hearing*” added 1-15-1959 by O-8042 N.S.)

§61.0105 Publication of Notice

The City Clerk shall cause notice of such hearing to be published twice in a newspaper of general circulation printed and published in this city. The first publication shall be not less than ten days prior to the date of such hearing.

(“*Publication of Notice*” added 1-15-1959 by O-8042 N.S.)

§61.0106 Posting of Notice

The Council shall direct the Superintendent of Streets to, and such Superintendent shall cause notice of such hearing to be conspicuously posted along the line of the contemplated work, at not more than 300 feet in distance apart, but not less than three in all, or, when the work to be done is only upon an entire crossing or intersection or any part thereof, in front of each quarter block or irregular block liable to be assessed. If the work is chargeable upon a district, copies of the notice shall also be posted on all the open streets within the district at not more than 300 feet in distance apart on each street so posted, but no proceeding shall ever be held invalid for failure to post any street if this section has been substantially complied with.

In every case all posting must be completed at least ten days before the day set for hearing protests or objections.

(“*Posting of Notice*” added 1–15–1959 by O–8042 N.S.)

§61.0107 Form and Contents of Notice

Such notice shall, in legible characters, state briefly the work proposed, designating by its short title or otherwise the act or procedure resolution under which the project or improvement is proposed to be undertaken; that the costs thereof or a part of such costs shall be assessed against lands to be benefited thereby; the day, hour and place of the hearing; that the Council proposes to find and determine whether the public convenience and necessity require the improvement; and that after such finding the proposed improvement may be ordered without further debt limitation or majority protest proceedings. Other pertinent matters may be included in the notice.

(“*Form and Contents of Notice*” added 1–15–1959 by O–8042 N.S.)

§61.0108 Protests

At the time set for the hearing, protests may be made by any person interested who objects to the determination by the Council that public convenience and necessity require the improvement, or to the ordering of such improvement, without further proceedings for majority protest or debt limitations.

(“*Protests*” added 1–15–1959 by O–8042 N.S.)

§61.0109 Hearing — Decision — Effect

The hearing may be continued from time to time. After the conclusion thereof and prior to adoption of a resolution ordering the improvement the Council shall consider

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and pass upon all protests filed and all matters presented and its decision thereon shall be final and conclusive.

If by such decision the Council finds and determines by no less than four-fifths vote of all members thereof that the public convenience and necessity require such improvement the Council may thereafter, in accordance with the improvement act or procedure resolution specified or designated for the project, adopt a resolution ordering the improvement substantially as proposed, or as modified, altered or changed by order of the Council as authorized by the improvement act or procedure resolution for the project.

After such finding and determination by the Council, the provisions of law for debt limitation and majority protest as mentioned in Article XIII, Section 17, of the Constitution shall not apply, and it shall not be necessary for the Council to prepare or to cause to be prepared, hear, notice for hearing, or report the hearing of any report thereon as to such improvement, except as may be required by the law or procedure resolution for the conduct of the improvement proceedings.

(“Hearing — Decision — Effect” added 1-15-1959 by O-8042 N.S.)

§61.0110 Combined Hearing Authorized

The Hearing required by this division may be a separate hearing or may be combined and held concurrently with the hearing required by the improvement act or Resolution of Intention pursuant to which the improvement proceeding is proposed.

(“Combined Hearing Authorized” added 1-15-1959 by O-8042 N.S.)

§61.0111 Combined Notice Authorized

Notice of hearing required by this division to be given by posting may be by posting a separate notice or may be by stating the necessary matters in a notice of hearing of protests posted pursuant to such improvement act or Resolution of Intention.

The publication of notice of hearing as required herein may be by publishing a separate notice, or by setting forth necessary recitals therefor in the resolution of intention, if published, or in such other notice of hearing of protests as may be published pursuant to such improvement act or Resolution of Intention.

In any event there must be both posting and publication of notice of hearing in the manner and for not less than the time required herein, and the time, place and purpose of this hearing must be stated in such notice, all as required by the Act under which the work is to be performed.

(“Combined Notice Authorized” added 1-15-1959 by O-8042 N.S.)