

RESOLUTION NO. CA-3-10

RESOLUTION OF THE MAYOR AND CITY COUNCIL TO
AMEND SECTION 74 OF THE CITY CHARTER ENTITLED
“SAME—PROCEDURES” TO ESTABLISH PUBLICATION
REQUIREMENTS FOR SPECIAL ASSESSMENTS BY
RESOLUTION

WHEREAS, Section 74 of the Charter of the City of Gaithersburg establishes requirements for publication of procedures for special assessments; and

WHEREAS, the City has determined that an effective and efficient means of publishing public notice of such hearings to adopt special assessment is by electronic means and posting; and

WHEREAS, the amendment of Section 74 of the Charter of the City of Gaithersburg was duly considered by the Mayor and City Council at a public hearing held on May 17, 2010.

NOW, THEREFORE, BE IT RESOLVED, that Section 74 of the City Charter is hereby amended as follows:

Section 1 – That Section 74 of the Charter of the City of Gaithersburg be, and the same is, repealed and reenacted with amendments as follows:

Sec. 74. Same--Procedure.

The procedure for special assessments shall be as follows:

- (a) The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the council.
- (b) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessment levied by the city and outstanding against any improved property at any time, exclusive of delinquent installments, to exceed twenty-five per centum of the assessed value of the improved property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.
- (c) When desirable, the affected property may be divided into different classes to be charged different rates, but except for this, any rate shall be uniform.
- (d) All special assessment charges shall be levied by the council by ordinance. Before levying any special assessment charges, the council shall hold a public hearing. The city manager shall cause notice to be given stating the nature and

extent of the proposed project, the kind of material to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the persons in whose names the property is proposed to be assessed are assessed for ad valorem taxation and by publication of a copy of the notice at least once ~~in a newspaper of general circulation in the city~~. The city manager shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the city manager shall have completed publication and service of notice as provided in this section. Following the hearing, the council, in its discretion, may vote to proceed with the project and may levy the special assessment.

(e) The city manager shall, promptly after the adoption of an ordinance levying a special assessment, mail a copy thereof for each property assessed, to the person in whose name such property is assessed for ad valorem taxation purpose.

(f) Any person whose property is assessed pursuant to this section shall have a right of appeal from such assessment to the Circuit Court for Montgomery County within thirty days after the date of mailing such copy of such ordinance.

(g) Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten years and in such manner as the council may determine. The council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council.

(h) All special assessment installments shall be overdue six months after the date on which they become due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as city taxes or by suit at law.

Section 2 – BE IT FURTHER RESOLVED that the date of the adoption of this resolution is June 7, 2010, and that the amendment to the Charter of the City of Gaithersburg, as herein adopted, shall be and become effective on July 27, 2010, unless on or before said date a proper petition for referendum of this resolution shall be filed as permitted by law.

Section 3 – BE IT FURTHER RESOLVED that a complete and exact copy of this resolution shall be posted at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877, until July 22, 2010, and a fair summary of the proposed Charter amendment contained in this resolution shall be published in a newspaper of general circulation in the City of Gaithersburg not fewer than four (4) times at weekly intervals before July 22, 2010.

Section 4 – AND BE IT FURTHER RESOLVED that as soon as the Charter amendment hereby enacted shall become effective, either as herein provided or following a referendum, the

City shall send or cause to be sent to the Department of Legislative Reference the following information concerning this Charter resolution: (1) the complete text of this resolution; (2) the date of enactment of the Charter amendment; (3) the date of the referendum election, if any; (4) the number of votes cast for or against this resolution whether by the City Council or in a referendum; and (5) the effective date of the Charter amendment contained herein.

ADOPTED by the City Council this 7th day of June, 2010.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council
in a public meeting assembled on the
7th day of June, 2010. This Resolution will
become effective on the 27th day of July, 2010.

Angel L. Jones, City Manager