

**384.49 Resolution of necessity.**

If, upon adoption of the plat, schedule, and estimate, the council determines to proceed with all or any part of the public improvement, it shall cause a proposed resolution of necessity to be prepared and introduced.

1. The resolution of necessity must include all of the following:

a. A brief description of the proposed public improvement.

b. A statement that there is on file in the office of the clerk an estimated total cost of the work, and a preliminary plat and schedule showing the amount proposed to be assessed to each lot for the improvement.

c. The date, time, and place the council will hear property owners subject to the assessment and interested parties for or against the improvement, its cost, the assessment, or the boundaries of the district.

2. A resolution of necessity may include:

a. Any number of streets or sewer lines for improvement.

b. All improvements which are included in the preliminary resolution.

c. A provision that unless a property owner files objections with the clerk at the time of hearing on the resolution of necessity, the property owner is deemed to have waived all objections pertaining to the regularity of the proceeding and the legality of using the special assessment procedure.

3. a. To replace curbing and gutters in cities with a population of less than ten thousand, the council may adopt a preliminary resolution as provided in subsection 1. The description of the curbing and gutters to be replaced shall be prepared under the council's supervision. The council may, by resolution, provide for the computation of the assessments on the basis of the original assessment or of the lineal footage of the curbing and gutters to be replaced. Public improvements initiated under this subsection shall in all other respects comply with this division.

b. For purposes of this subsection, "*replace*" means to substitute new curb and gutter at the same location where old curb and gutter is located and being reconstructed due to deterioration or destruction. "*Replace*" does not include the reconstruction of curb and gutter to change the grade or reconstruction required because of a street widening project.

[C73, §465, 466; C97, §791, 810; S13, §849-c; SS15, §751, 810, 840-j, 840-m; C24, §5942, 5991, 5992; C27, §5942-b2, 5991, 5992, 5995, 6082; C31, 35, §5942-b2, 5991, 5992, 5995, 6082, 6610-c17; C39, §5942.2, 5991, 5992, 5995, 6082, 6610.16; C46, §389.6, 391.18, 391.19, 391.22, 395.4, 417.17; C50, §389.6, 391.18, 391.19, 391.22, 391A.9, 395.4, 417.17; C54, 58, 62, §389.6, 391.18, 391.19, 391.22, 391A.12, 395.4, 417.17; C66, 71, 73, §389.6, 390A.7, 390A.8, 390A.11, 391.18, 391.19, 391.22, 391A.12, 395.4, 417.17; C75, 77, 79, 81, §384.49; 82 Acts, ch 1087, §1]

Referred to in §357E.11A