

## CHAPTER 2

### Special Assessments

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#### **SEC. 3-2-1 PURPOSE**

The Village regularly installs public infrastructure improvements, such as streets, water mains and sewers at Village cost. In some instances, none of such costs should be recouped by either special assessment or alternative charges. In some instances, to recover an appropriate share of such costs, special assessment procedures should be used. In other situations, an appropriate cost share should be recovered through the imposition of alternative charges.

#### **SEC. 3-2-2 STATEMENT OF INTENT; VILLAGE GENERAL SPECIAL ASSESSMENT GUIDING PRINCIPLES**

- (a) The Village by Resolution of its Village Board may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement.
- (b) The Village will levy special assessments, when appropriate to do so, under and pursuant to Wis. Stat. § 66.0703.

- (c) In an appropriate case, the Village will levy special assessments under the taxing power of the Village, within a limited and determinable area, for special benefits conferred, but not in excess of the value of the special benefits conferred.
- (d) In an appropriate case, the Village will levy special assessments under the police power of the Village, within a limited and determinable area, for special benefits conferred, upon a reasonable basis and in proportion to the benefits accruing.
- (e) All special assessments will be apportioned fairly and equitably among properties in similar situations, taking into consideration the uniqueness of individual properties including the presence of wetlands, flood plains, conservation easements and similar factors affecting property.
- (f) Special assessments will only be levied for a local improvement. If a project provides both a community-wide and a local improvement, only the local improvement component will be considered in levying special assessments. In determining whether an improvement is local, in whole or in part, the Village will refer to the then-current Village Comprehensive Plan and other relevant information.
- (g) For all special assessments, the Village will consider whether special benefits have the effect of furnishing an uncommon advantage, which either increases the services provided to the property, or otherwise enhances its value. An uncommon advantage must be a benefit that differs in kind, rather than in degree, from benefits enjoyed by the general public.
- (h) The Village will not levy a special assessment against any property that is exempt from special assessment under Wisconsin Statutes.
- (i) In considering a special assessment for a corner property, the Village will allow a deduction or exemption if the property is already served by the same improvement via an abutting street and a special assessment has previously been levied or an alternative charge paid for such improvement.
- (j) The special assessment costs may include the direct and indirect construction costs, the resulting damages, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Village, the cost of any architectural, engineering and legal services and any other item of direct or indirect cost that may reasonably be attributed to the proposed work or improvement. The Village Board may include costs incurred when private property is acquired for a public project.
- (k) In considering any special assessment, the formula to be used may be any reasonable formula, or combination thereof.
- (l) In considering any special assessment, costs to be included for calculation of the special assessment will be reduced by the costs added for oversized facilities.
- (m) In the situation of multiple property owners in a discrete developed area who petition the Village to extend an improvement to serve their properties, if the owners of two-thirds or more of the group of properties to be served by the improvement agree to be specially assessed, all of the properties in the group will be subject to special assessment.
- (n) Special assessments may be deferred in certain limited situations.
- (o) The Village will periodically review its special assessment payment plan, for installments and interest rates. The current policy is as follows:  
Special assessments shall be paid in full, or in annual installments. Assessments also may be prepaid, partially or in whole, after the installment method has been selected. The number of

annual installments in which a special assessment is to be paid will be determined in the Preliminary Special Assessment Resolution, based on the total amount of the special assessment, and in accordance with the following:

- (1) If the special assessment is less than \$400, the special assessment shall be paid in one payment, within 90 days of completion of the project.
  - (2) If the special assessment is at least \$400.01 to \$1,500, the special assessment shall be paid in five annual installments, as determined in the preliminary special assessment roll.
  - (3) If the special assessment is at least \$1,500.01 to \$10,000, the special assessment shall be paid in 10 annual installments, as determined in the preliminary special assessment roll.
  - (4) If the special assessment is at least \$10,000.01, the time period for payment shall be determined by the Village Board in the Final Resolution imposing special assessments. In no event, shall the special assessment installments be for a period longer than 20 years.
  - (5) The rate of interest on the outstanding balance shall be 1.5% greater than the Village's rate of interest on any bonds issued to finance the project, or in the event no bonds are issued, then 1.5% greater than the average rate of interest on all similar bonds issued in the previous calendar year.
  - (6) All special assessments are due and payable in full upon the division of the property (plat or certified survey map) or connection to the improvement for which the special assessment was made.
- (p) In all situations where a special assessment has been deferred for more than 10 years, as of May 17, 2023 but has not become due and payable because no event described in Subsection (o)(6) above has occurred, the special assessment shall be converted to an alternative charge, as provided in Sec. 3-2-12 below.

**SEC. 3-2-3 RESOLUTION AND REPORT REQUIRED**

- (a) Prior to making any special assessments, the Village Board shall declare by Preliminary Special Assessment Resolution its intention to exercise such powers for a stated municipal purpose. Such Resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under Section 3-2-4 of this Chapter and direct the proper municipal officer or employee to make a report thereon. Such Resolution may limit the proportion of the cost to be specially assessed.
- (b) The report required by Subsection (a) shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) An estimate (or actual if available) of the entire cost of the proposed work or improvement.
  - (3) An estimate (or actual if available) as to each parcel of property affected of:
    - a. The assessment of benefits to be levied.
    - b. The damages to be awarded for property taken or damaged.

- c. The net amount of such benefits over damages or the net amount of such damages over benefits.
- (4) A statement that the property against which the special assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimated required under Subsection (3) shall be replaced by a schedule of the proposed special assessments.
- (5) A copy of the report when completed shall be filed with the Village Clerk for public inspection.

**SEC. 3-2-4 NOTICE OF PROPOSED OR APPROVED PROJECT**

On the completion and filing of the report required in Section 3-2-3(b)(5) of this Chapter, the Village Clerk shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed special assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Village Board thereof and be heard concerning the matters contained in the Preliminary Resolution and report. Such notice shall be given by publication in the official Village newspaper and a copy of said notice shall be mailed to each interested person whose post office address is known, as required by Wis. Stat. Sec. 66.0703. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or posting of said notice.

**SEC. 3-2-5 BOARD ACTIONS AFTER HEARING**

- (a) After the hearing, the Village Board may approve, disapprove, modify or refer the report to a designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable special assessment.
- (b) If a special assessment be made against any property and an award of compensation or damage be made in favor of the property, the Village Board shall assess only the difference between such special assessment of benefits and the award of compensation or damage.
- (c) Timing.
  - (1) If the work or improvement has not been previously authorized or approved, the Village Board shall approve the work or improvement and, by Resolution, direct that the same be done and paid for in accordance with the report finally approved.
  - (2) If the work or improvement has been approved by the Village Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Village Board shall, by Resolution, confirm the report as made or modified and provide for payment in whole or in part by special assessment.
- (d) The Village Clerk shall publish and mail the Final Resolution as required by Wisconsin Statutes.
- (e) After the publication of the Final Resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all special assessments made shall be deemed duly and properly made, subject to the right of appeal by Section 66.0703(12), Wis. Stat., or any other applicable provision of law.

**SEC. 3-2-6 COMBINED SPECIAL ASSESSMENTS**

If more than a single improvement is undertaken, the Village Board may combine the special assessments as a single special assessment on each property affected except that the property owner may object to the inclusion of any one (1) or more of said improvements.

**SEC. 3-2-7 BOARD'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT**

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the special assessment is void or invalid for any reason, or if the Village Board determines to reconsider a special assessment, it is empowered to do so, after giving notice and holding a public hearing, as required by Wisconsin Statutes.

**SEC. 3-2-8 WHERE COST OF IMPROVEMENT IS LESS THAN SPECIAL ASSESSMENT**

If the cost of the work or improvement is less than the special assessment levied, the Village Board, without notice or hearing, shall reduce each special assessment proportionately. If the special assessment has been paid either in part or in full, the Village shall refund the property owner such overpayment.

**SEC. 3-2-9 APPEALED SPECIAL ASSESSMENTS BOND OR CASH**

Pursuant to Subsection (12)(F) of Section 66.0703, Wis. Stat., it shall be a condition to the maintenance of any appeal that the person appealing shall execute a bond, or submit cash to the Village, in the sum of \$150 and upon default in payment any such appeal shall be dismissed.

**SEC. 3-2-10 SPECIAL ASSESSMENT A LIEN ON PROPERTY**

Pursuant to Subsection (13) of Section 66.703, Wis. Stat., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the Village. The Village Board shall provide for the collection of such special assessments and may establish penalties for payment after the due date. The Village Board shall provide that all special assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such special assessment, except as otherwise provided by Wisconsin Statutes.

**SEC. 3-2-11 MISCELLANEOUS PROVISIONS**

- (a) If any special assessment or charge levied under this Chapter is invalid because the enabling Statute or Ordinance is found to be unconstitutional, the Village Board may thereafter reassess such special assessment or charge pursuant to the provisions of any applicable law.

- (b) The Village Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited, if notice and hearing is waived in writing by the property owners affected.
- (c) Notwithstanding any other provision of law or this or other Ordinance or Resolution, it is specifically intended and provided by this Chapter that the Village may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

**SEC. 3-2-12 ALTERNATIVE CHARGES IN LIEU OF SPECIAL ASSESSMENTS**

- (a) In the situation of a property owner seeking to extend a public infrastructure improvement to property to allow for development, with the improvement traversing sparsely developed or agricultural areas, the Village may require the requesting property owner to pay to the Village, in advance, the total amount to extend the improvement to that property. When an additional property connects to the improvement, that property owner will contribute to the original requester's cost, by payment of an alternative charge to the Village. The Village will periodically remit such collected sums to the requester or requester's assignee. The amount of the alternative charge will be equal to the then-current alternative charge, as set by the Village from time to time.
- (b) In the situation of a property owner seeking to extend a public infrastructure improvement to property to allow for development, with the improvement traversing sparsely developed or agricultural areas, the Village may charge the requesting property its fair share of the cost of installation to that property and fund the remainder itself, with municipal funds. When an additional property connects to that improvement, that property owner will contribute to the Village's cost by payment of an alternative charge to the Village. The amount of the alternative charge will be equal to the then-current alternative charge, as set by the Village from time to time.
- (c) In instances where the Village has installed a public infrastructure improvement entirely at its expense and has not imposed a special assessment for the project, which would otherwise qualify for special assessment, an alternative charge will be utilized. When a property connects to the improvement, that property owner will contribute to the Village's cost through an alternative charge paid to the Village. The amount of the alternative charge will be equal to the then-current alternative charge, as set by the Village from time to time.
- (d) In considering any alternative charge for a corner property, the Village will allow a deduction or exemption where an alternative charge or special assessment has previously been paid for the same improvement in an abutting street.
- (e) The Village Clerk will maintain a docket identifying properties which are subject to future alternative charges. The Village Clerk will make such docket available to property owners, prospective purchasers, abstracters and title companies.
- (f) Any property owner subject to an alternative charge may pay for said alternative charge in installments identical to those set forth hereunder, provided that either connection to the public infrastructure occurs or a property owner elects to begin installment payments within 12 months after the property owner is mailed a copy of the Resolution.

- (1) The Village Board shall notify property owners of the payment installment option in Subsection (f) by Resolution. The Resolution shall be mailed to each property owner subject to an alternative charge informing the property owner of the availability of the payment installment option in Subsection (f).