

TITLE 2 - GOVERNMENT AND ADMINISTRATION

Chapter 8 - Special Assessments

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2.8.1 Special Assessments.

2.8.1.01 In General

Except as provided in Sec. 66.0721, Wis. Stats., in addition to other methods provided by law, the Town Board may, by ordinance, provide that the cost of installing or constructing any public work or improvement shall be charged in whole or in part to the property benefited, and make an assessment against the property benefited in the manner that the governing body determines.

(A) Lien.

The special assessment is a lien against the property from the date of the levy.

(B) Notice and Hearing.

Every ordinance under this section shall contain provisions for reasonable notice and hearing. See Section 2.8.3.02 below.

(C) Appeal.

Any person against whose land a special assessment is levied under the ordinance may appeal in the manner prescribed in Sec. 66.0703(12), Wis. Stats. within 40 days of the date of the final determination of the governing body.

(D) Levy Amount

The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Town Board.

State Law Reference: Section 66.0701, Wis. Stats.

2.8.1.02 Resolution and Report Required

(A) Preliminary Resolution.

(1) Prior to making any such special assessments, the Town Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose.

(2) Such resolution shall describe generally:

(a) the contemplated purpose,

(b) the limits of the proposed assessment district,

(c) 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 2.8.1.01(B) above of this Chapter and

(d) direct the proper Town officer or employee to make a report thereon.

(B) Such resolution may limit the proportion of the cost to be assessed.

2.8.1.03 Report Contents

The report required by Section 2.8.1.02(A)(2)(d) above shall consist of:

(A) Preliminary or final plans and specifications.

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- (B) An estimate of the entire cost of the proposed work or improvement.
- (C) An estimate as to each parcel of property affected of:
 - (1) The assessment of benefits to be levied.
 - (2) The damages to be awarded for property taken or damaged.
 - (3) The net amount of such benefits over damages or the net amount of such damages over benefits.
- (D) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimate required under Sec. 2.8.1.03(C)(3), TGO, shall be replaced by a schedule of the proposed assessments.
- (E) A copy of the report when completed shall be filed with the Town Clerk for public inspection.

2.8.1.04 Costs That May be Paid by Special Assessment

- (A) Costs Included.
 - (1) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include:
 - (a) the direct and indirect cost thereof;
 - (b) the damages occasioned thereby;
 - (c) the interest on bonds or notes issued in anticipation of the collection of the assessments;
 - (d) a reasonable charge for the services of the administrative staff of the Town;
 - (e) the cost of any architectural, engineering and legal services; and
 - (f) any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement.
- (B) The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Town Board.

2.8.1.05 Exemptions; Deductions

- (A) Exempt Property.

If any property deemed benefited shall, by reason of any provision of law, be exempt from assessment therefor, such assessment shall be computed and shall be paid by the Town.
- (B) Corner Lots.

A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts shall be entitled to such deduction or exemption as the Town Board determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. Under any circumstance, the assessment will not be less than the long way of such

lot. The Town Board may allow a similar deduction or exemption from special assessments levied for any other public improvement.

2.8.1.06 Notice of Proposed or Approved Project

- (A) Notice Contents.
 - (1) On the completion and filing of the report required in Section 2.8.1.02, the Town Clerk shall give notice pursuant to Section 2.8.3.02 below stating:
 - (a) the nature of the proposed or approved work or improvement;
 - (b) the general boundary lines of the proposed assessment district;
 - (c) the place and time at which the report may be inspected; and
 - (d) the place and time at which all interested persons, their agents or attorneys may appear before the Town Board or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report.
 - (2) 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.

2.8.1.07 Board Actions After Hearing

- (A) Report Actions.

After the hearing, the Town Board may approve, disapprove, modify or re-refer the report to the 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 assessment.
- (B) Net Assessment or Award.

If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Town Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.

2.8.1.08 Work Authorization

- (A) If the work or improvement has not been previously authorized or approved, the Town 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.
- (B) If the work or improvement has been approved by the Town Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Town Board shall, by resolution, confirm the report as made or modified and provide for payment in whole or in part by assessment.

2.8.1.09 Final Resolution

(A) Publication.

The Town Clerk shall publish the final resolutions as required in Section 2.8.3.02 below.

(B) Presumptions.

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 assessments made shall be deemed duly and properly made, subject to the right of appeal by Sec. 66.0703(12), Wis. Stats., or any other applicable provision of law.

2.8.1.10 Combined Assessments

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

2.8.1.11 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 assessment is void or invalid for any reason, or if the Town Board determines to reconsider an assessment, it is empowered, after giving notice as required in Section 2.8.3.02 to amend, cancel or confirm any prior assessment.

2.8.1.12 Where Cost of Improvement Is Less Than Assessment

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

2.8.1.13 Appealed Assessments Payable When Due

Pursuant to Sec. 66.0703(12)(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable and upon default in payment any such appeal shall be dismissed.

2.8.1.14 Lien on Property

Pursuant to Section 66.0703(13), Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the Town. The Town Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Town Board shall provide that all 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 assessment, except as otherwise provided by statute.

2.8.2 Special Charges For Current Services.

State Law Reference: Section 66.0627, Wis. Stats.

2.8.2.01 Imposed by Town Board

(A) In addition to all other methods provided by law, special charges for current services may be imposed by the Town Board by allocating all or part of the cost to the property served. Such may include:

- (1) snow and ice removal;
- (2) weed elimination;
- (3) street sprinkling, oiling or tarring;
- (4) repair of sidewalks or curb and gutter;
- (5) garbage and refuse disposal;
- (6) recycling;
- (7) storm water management, including construction of storm water management facilities;
- (8) removal and disposition of dead animals;
- (9) soil conservation work;
- (10) sewer service;
- (11) wood and brush chipping; and
- (12) tree care or removal.

2.8.2.02 Notice

The provision for notice of such charges shall be optional with the Town Board except that, in the case of street, sidewalk, curb or gutter repair, twenty (20) days' notice in accordance with Section 2.8.3.02 below, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Town Board as to whether the service in question shall be performed.

2.8.2.03 Installment Payments

Such special charges shall not be payable in installments. If not paid within the period fixed by the Town Board, such delinquent charge shall become a lien as provided in Section 2.8.1.14 above of this Chapter.

2.8.2.04 Preliminary Resolution and Report Not Required

Section 2.8.1.02 above of this Chapter shall not be applicable to proceedings under this Section.

2.8.3 Miscellaneous Provisions.

2.8.3.01 Reassessment if Original Invalid

If any assessment or charge levied under this Chapter is invalid because such statutes are found to be unconstitutional, the Town Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.

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2.8.3.02 Notice

- (A) Whenever a provision of this Chapter requires notice, then the Town Clerk shall:
 - (1) Notice shall be published as a Class 1 Notice, under Ch. 985, Wis. Stats., in the official Town newspaper;
 - (2) Post in not less than three (3) public places within the Town; or
 - (3) A copy of the notice shall be mailed, at least ten (10) days before the hearing or proceeding, to every interested person whose post office address is known or can be determined with reasonable effort.
- (B) The Town 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 all of the property owners affected.

2.8.3.03 Intent of Chapter

Notwithstanding any other provision of law or this or other Ordinance or resolution, it is specifically intended and provided by this Chapter that the Town 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.

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