

## CHAPTER 21 LEVYING OF SPECIAL ASSESSMENTS

**Note: This chapter recreates Ordinance No. 49, adopted in November 1958**  
**Cross References: Public Works (Ch. 6), Water Utility (Ch. 7), Finance (Ch. 17)**

### **Section 21-1. Purpose of chapter**

The purpose of this chapter is to provide payment for the construction, reconstruction, improvement and preservation of public improvements including but not limited to, streets, curbs and gutter; sewer and water mains; and sidewalks and driveway approaches in the village by the levy of special assessments therefore upon various classes of real estate, in a fair and equitable manner, through the application of a variety of formulas.

### **Section 21-2. Special assessment procedures**

- (a) *Authority to levy.* Pursuant to WI St. Stats. #'s 66.0701 thru 66.0733 in addition to other methods provided by law, special assessments for any public work or improvement may be levied in accordance with the provisions of this chapter.
- (b) *Determination and levy.* Whenever the village board shall determine that a public work or improvement shall be financed in whole or in part by special assessments levied under this chapter, it shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessment will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of the assessments may be deferred while no use of the improvement is made in connection with the property.
- (c) *Hearing.* The provisions of WI St. Stats. #66.0703 shall apply to special assessments levied under this chapter, except that, when the village board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement, or the rendering of the service, the report required by WI St. Stats. #66.0703(5) shall contain a statement of the final cost of the work, service, or improvement in lieu of an estimate of cost.
- (d) *Notice of Hearing.* Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by WI St. Stats. #66.0703(7) and (8).

- (e) *Lien.* Any special assessment levied under this chapter shall be a lien against the property assessed from the date of the final resolution of the village board determining the amount of the levy.
- (f) *Appeal.* Any person against whose property a special assessment is levied under this chapter may appeal there from in the manner prescribed by WI St. Stats. #66.0703(12), within 90 days of the final determination of the village board.

**Section 21-3. Adoption of state law provisions**

Except as otherwise provided in this chapter, WI St. Stats. #'s 66.0701 thru 66.0733, shall be followed in levying special assessments and imposing special charges for the cost of installing or construction<sup>of</sup> any public work or improvement by the village, and such statutes are adopted by reference and made a part of this chapter. In addition, when applicable, the following statutes shall be followed in levying special assessment and imposing special charges for the cost of installing or constructing any public work or improvement by the village, and such statutes are adopted by reference and made a part of this chapter:

WI St. Stats. #66.1109 Business improvement districts.

WI St. Stats. #66.0907 Sidewalks

WI St. Stats. #66.0911 Laterals and service pipes

**Section 21-4. Levy of assessments**

- (a) The cost of installing or constructing any public work or improvement by the village may be charged under this chapter, in whole or in part, to the property benefited by such work or improvement, and the village board may make assessment against such benefited property in the manner provided by law.
- (b) As a complete alternative to all other methods provided by law, the village may, by resolution, levy and collect special assessments under its police powers.
- (c) The assessments may be made after the completion of the work or improvement. Where the special assessment will be determined after the completion of the work or improvement, the following procedures shall apply:
  - 1) Prior to the exercise of any powers conferred by this chapter and prior to the completion of the work or improvement, the village board shall declare by preliminary resolution its intention to exercise such powers

for a stated municipal purpose. The 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 in this chapter, and direct the proper village officer or employee to make a report thereon. The resolution may limit the proportion of the cost to be assessed.

- 2) The report required by subsection (c)(1) of this section shall be made after completion of the work or improvement and shall consist of:
  - a. Final plans and specification;
  - b. A statement of the entire cost of the work or improvement;
  - c. A schedule of the proposed assessments;
  - d. A statement that the property against which the assessments are proposed is benefited; and
  - e. References to section 21-4 shall refer to WI St. Stats. # 66.0703(a)(b) and references to section 70-4 shall refer to WI St. Stats. #66.00703(1)(a).

#### **Section 21-5. Cost of work or improvement that may be included**

The cost of any work or improvement to be paid, in whole or in part, by special assessment on property may include the direct and indirect cost, the resulting damages, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the service of the administrative staff of the village and the cost of any architectural, engineering and legal services, and any other items of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. 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 village board. 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 there from, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the village board.

#### **Section 21-6. Lots already served by any public work or improvement**

No assessment for sanitary sewer, storm sewer or water main shall be levied against a parcel of land already served with sanitary sewer, storm sewer or water main, unless such parcel of land may be divided or subdivided in accordance with zoning

chapter (Chapter 9) or the land division chapter (Chapter 10) in which case the assessment shall be computed according to the potential new lots which may be created.

**Section 21.7. Sanitary sewer main extensions**

- (a) Assessments for sanitary sewer main extensions shall be levied as follows:
  - 1) Residential. In areas of existing residential development or areas zoned for residential land uses assessments for sanitary sewer main extensions not exceeding eight (8) inches in diameter shall be levied upon properties benefited by such improvements.
  - 2) Commercial, industrial or institutional. In areas of existing commercial, industrial or institutional development or areas zoned for such land uses, assessments for sanitary sewer main extensions not exceeding 12 inches in diameter shall be levied upon properties benefited by such improvements.
  - 3) Except as provided in subsection (b) of this section, where sanitary sewer main extensions are larger than the diameters specified in paragraphs (1) or (2) of this subsection, the village will assume the difference between the estimated cost of installing a sanitary sewer of the diameter specified in paragraph (1) or (2) of this subsection and the actual cost of installing sanitary sewer extensions of greater diameter, and the properties benefited by such improvements shall be assessed on the basis of the estimated cost of installing a sanitary sewer main of the diameter specified in paragraph (1) or (2) of this subsection.
- (b) The applicants for a sanitary sewer main extension under (21-12)(f) (customer contributions) shall pay all costs related to the installation of any sanitary sewer main extension installed under the provisions of that section.

**Section 21-8. Water main extensions**

- (a) Assessments for water main extensions shall be levied as follows:
  - 1) Residential. In areas of existing development or areas zoned for residential land§ uses, assessments for water main extensions not exceeding eight inches in diameter shall be levied upon properties benefited by such improvements.
  - 2) Commercial, industrial or institutional. In areas of existing commercial, industrial or institutional development areas zoned for such land uses, assessments for water main extensions not exceeding 12 inches in diameter shall be levied upon properties benefited by such improvement.

3) Except as provided in subsection (b) of this section, where water main extensions are larger than in the diameters specified in paragraphs (1) or (2) of this subsection, the village will assume the difference between the estimated cost of installing water main of the diameter specified in paragraph (1) or (2) of this subsection and the actual cost of installing water main extensions of greater diameter, and the properties benefited by such improvements shall be assessed on the basis of the estimated cost of installing a water main of the diameter specified in paragraph (1) or (2) of this subsection.

(b) The applicants for a water main extension under 21-12(f) customer contributions) shall pay all costs related to the installation of any sanitary sewer main extension installed under the provision of that section (S2).

### **Section 21-9. Street construction and improvements**

Assessments upon property in a limited and determinable area for special benefits conferred upon such property by new street, road and/or alley construction shall be levied upon properties benefited by such work or improvements, and each parcel of land may be entitled such deduction or exemption, if any, as the village board may determine to be reasonable and just under the circumstances in each case and consistent with the policy set out in the special assessment report adopted by the village board as part of the particular special assessment.

### **Section 21-10. Corner parcels**

A parcel of land against which has been levied a special assessment for 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 village board determines to be reasonable and just under circumstances of each case, when a special assessment is levied for sanitary sewer or water main lad in the other street upon which such corner lot abuts. The village board may allow a similar deduction or exemption from special assessments levied for any other public improvement on such corner lot.

### **Section 21-11. Laterals and service pipes**

- (a) *Special assessments.* Assessments for all laterals and service pipes, including those for sanitary sewer, water and storm sewer, shall be levied upon properties benefited by such improvements, and shall provide for the payment of all of the cost of the work or improvement.
- (b) *Construction and size.* Water laterals and sanitary sewer laterals shall be constructed from the lot line or near the lot line to the main. No water lateral shall be less than one inch in diameter, and no sanitary sewer lateral shall be less than six (6) inches in diameter.

- (c) *Risers.* Risers for sanitary sewer laterals shall be considered a part of the sewer main.

#### **Section 21-12. Payment of assessments**

- (a) *Assessment notice.* Upon completion of the work or improvement for which a special assessment is levied and upon certification by the village president or designee that such work or improvement has been completed, the village clerk-treasurer shall bill the property owner by invoice for the full amount the assessment. Such invoice shall notify the owner that he or she may elect with 30 days of the invoice to pay such amount in full without interest or to pay by installments with interest as provided in subsection (c) of this section.
- (b) *Cash payment.* Payment of the assessment shall be made to the village clerk-treasurer on or before the expiration of 30 days from the date of the assessment notice, without interest. If the amount is not paid with 30 days, and the taxpayer does not notify the village, the full amount of the assessment shall be placed on the tax roll in ten (1) equal installments, one-tenth each year, plus interest on the unpaid balance.
- (c) *Installment payment.* If the property owner should so elect, payment of the full assessment may be made in installments according to the installment plan set out in the special assessment report adopted by the village board. On the installment plan, the full principal amount of the assessment shall be paid in equal annual installments, plus the interest on the unpaid balance. The first installment shall be due and payable at the same date that real estate taxes are due and payable for the current year. The first installment shall include the interest commencing with date shown on the assessment notice. The remaining annual installments, shall be due and payable on the same date that real estate taxes are due and payable for each successive year thereafter. Each remaining installment shall include the interest on the unpaid balance to the year of payment.
- (d) *Prepayment.* If the property owner should so elect, payment in full of the unpaid balance with interest to date of payment, may be paid at any time before the final installment becomes due.
- (e) *Interest.* Interest shall be one percent (1%) over the initial borrowing cost of the village to finance the project.
- (f) *Customer contributions.*
  - 1) *Advance contributions.* Where the village board has determined that the density of prospective customers does not warrant immediate assessment for water mains, sanitary sewer mains and storm sewer

mains, the total cost of the extension will be determined and the total cost will be divided among the applicants for the extension and collected from them in advance as contributions for the extension.

- 2) *Reimbursement.* As additional customers outside of the property for which the total cost of extension has been collected are connected to a water main, sanitary sewer main or storm sewer main originally paid for by the applicant's contributions, the village require, as a condition of service that each additional customer pay to the village an amount equal to the special assessment he or she would have paid at the time of the installation. Such amounts will be retained by the village and distributed periodically, when sufficient in amount to warrant distribution, to the ten current owners of the property which was subject to the original customer contribution on a pro rata basis. As an alternative to the distribution method specified in the preceding sentence, the owner of the property subject to the original customer contribution may, by agreement with the village at the time of the original customer contribution, designate the persons to whom the distribution will be made, subject to the terms specified by the village in the agreement. No reimbursement under this subsection shall be collected or paid to contributing customers after ten (10) years from the installation of the extension provided for in subsection (f)(1) of this section, nor shall any reimbursement be made in excess of the amount contributed.
  - 3) *Alternative.* As a complete alternative to the procedure set forth above, the village may proceed under WI St. Stats. #66.0821(2)(a)(2).
- (g) *Deferring certain assessment; deferred special assessments.* Pursuant to WI St. Stats. #66.0715(2), the due date of any special assessment levied against property abutting on or benefited by a public improvement may be deferred on such terms and in such manner as prescribed by the village board while no use of the improvement is made in connection with the property. The special assessments shall become due and payable in full within 30 days of completion of any improvements upon the property, which cause the property to make use of the improvement for which the special assessment was levied, or upon the sale and transfer of the property, whichever occurs first. The special assessment and interest as prescribed by the village board and the interest shall accrue from the date of the assessment notice. The special assessment and interest shall be a lien against the property.
- (h) *Permits.* Prior to the issuance of any building or plumbing permit, the village zoning administrator or designee shall refer the application for a permit to the village clerk-treasurer to determine if a special assessment, customer contribution or a deferred assessment is outstanding against the parcel involved.

### **Section 70-13. Dividing and subdividing**

All public improvements required at the time of dividing or subdividing in accordance with the zoning chapter (Chapter 9) or the land division (Chapter 10) shall be construed and paid for by the developer.

### **Section 70-14. Situations not covered**

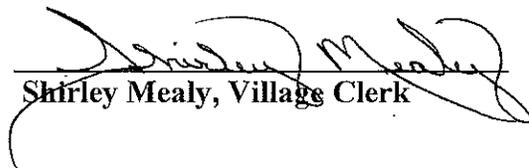
Situations not covered by this chapter in levying special assessments for the installation and village board shall resolve construction of public improvements in the village. The village board shall, prior to making a determination, consult with the village engineer and village attorney.

### **Section 70-15. Professionals' fees**

- (a) *Fees of village professionals charged back.* Whenever either the village board, village clerk or other village official has authorized a property owner in the village to contact the village attorney, engineer or any other of the village's professional staff, or the village board, village clerk or other village official contacts, said village attorney, engineer or any of the village's professional staff, and said contact results in a charge to the village for that professional's time and services and said service is not a service supplied to the village as a whole, then and in that event the village clerk shall charge that service to said property owner for the fees incurred by the village unless otherwise directed by the village board.
- (b) *Property owner allowed time to pay.* The village clerk shall give each property owner billed for current services as provided for herein a period of time not to exceed 30 days to pay, and thereafter if that charge remains unpaid, the village clerk shall automatically charge that delinquent bill against the current or next tax roll as a delinquent tax against the property as provided by law. In the event the statement rendered to the property owner or the time given for the property owner to pay is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.

Adopted this 13<sup>th</sup> day of September, 2007

  
Richard Spurrell, Village President

  
Shirley Mealy, Village Clerk