

CHAPTER 8

Special Assessments

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SEC. 2-8-1 TOWN BOARD MAY LEVY SPECIAL ASSESSMENTS.

- (a) The Town of Burke by resolution of its Town 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 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 66.62, Wis. Stats.

SEC. 2-8-2 RESOLUTION AND REPORT REQUIRED.

- (a) 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. 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 2-8-5 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 assessed.
- (b) The report required by Subsection (a) shall consist of:
 - (1) Preliminary or final plans and specifications.
 - (2) An estimate of the entire cost of the proposed work or improvement.
 - (3) An estimate 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 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 assessments.
- (5) A copy of the report when completed shall be filed with the Town Clerk for public inspection.

SEC. 2-8-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.

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 thereof, the damages occasioned thereby, 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 Town and the cost of any architectural, engineering and legal services, and any other item 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 Town Board.

SEC. 2-8-4 EXEMPTIONS; DEDUCTIONS.

- (a) 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) 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.

SEC. 2-8-5 NOTICE OF PROPOSED OR APPROVED PROJECT.

On the completion and filing of the report required in Section 2-8-2(b)(5) of this Chapter, the Town Clerk shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed 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 Town Board or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be given either by publication in the official Town newspaper or posted in not less than three (3) public places within the Town and a copy of said notice shall be mailed to each interested person whose post office address is known. 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. 2-8-6 BOARD ACTIONS AFTER HEARING.

- (a) 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) 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.
- (c)
 - (1) 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.
 - (2) 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.
- (d) The Town Clerk shall publish the final resolutions as required in Section 2-8-5 of this Chapter.
- (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 assessments made shall be deemed duly and properly made, subject to the right of appeal by Section 66.60(12), Wis. Stats., or any other applicable provision of law.

SEC. 2-8-7 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.

SEC. 2-8-8 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 2-8-5 to amend, cancel or confirm any prior assessment, and notice of this amending, canceling or confirming be given by the Town Clerk as provided in Section 2-8-6 of this Chapter.

SEC. 2-8-9 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.

SEC. 2-8-10 APPEALED ASSESSMENTS PAYABLE WHEN DUE.

Pursuant to Subsection (12)(F) of Section 66.60, 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.

SEC. 2-8-11 SPECIAL ASSESSMENT A LIEN ON PROPERTY.

Pursuant to Subsection (13) of Section 66.60, 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.

SEC. 2-8-12 SPECIAL CHARGES PERMISSIBLE.

- (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 of the property served. Such may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care or removal. 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 published in the Town newspaper, or by posting such notice in three (3) places in the Town and a copy of such notice mailed to every interested person whose post office address is known, 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.
- (b) 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 2-8-11 of this Chapter.
- (c) Section 2-8-2(a) of this Chapter shall not be applicable to proceedings under this Section.

SEC. 2-8-13 MISCELLANEOUS PROVISIONS.

- (a) 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.
- (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 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 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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