

## Chapter 2

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#### **Sec. 3-2-1 Common Council May Levy Special Assessments.**

- (a) The City of Onalaska by resolution of its Common Council 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. In addition to other methods approved by law, special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.
- (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 Common Council.
- (c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefor. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.  
*State Law Reference: Sections 66.0703 and 66.0717, Wis. Stats.*

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**Sec. 3-2-2 Resolution and Report Required.**

- (a) Public improvements carried out pursuant to Section 66.0703, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the Director of Public Works, which resolution shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of installments in which special assessment may be paid or that the number of installments will be determined at hearing thereon, and direct the Director of Public Works to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk to the Director of Public Works. The City Clerk shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Director of Public Works. Upon receipt of copy of such preliminary resolution, the Director of Public Works shall prepare the report thereon.
- (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 damages.
    - 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 estimates 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 City Clerk for public inspection.
- (c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.0703(5), Wis. Stats., and Subsections (a) and (b) above still contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

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#### **Sec. 3-2-3 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 City 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 Common Council.

#### **Sec. 3-2-4 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 made part of the total project cost.
- (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 Common Council 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 circumstances the assessment will not be less than the long way of such lot. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.

#### **Sec. 3-2-5 Notice of Proposed or Approved Project.**

- (a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk required in Section 3-2-2(b)(5) of this Chapter, the Director of Public Works shall prepare a Notice of Hearing, which notice shall comply with Sec. 66.0703(7)(a) , Wis. Stats., and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk shall set the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.

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- (b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment. In such cases, the procedure shall be the same as herein before provided excepting for the noticing and holding of public hearing thereon.

### **Sec. 3-2-6 Council Actions After Hearing.**

- (a) After the hearing, the Common Council may:
  - (1) Approve, disapprove, modify or re-refer the report to the Director of Public Works with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
  - (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.
- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Common Council 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 Common Council 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 Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) The City Clerk shall publish the final resolution as required in Section 3-2-2 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 66.0703(12), Wis. Stats., or any other applicable provision of law.
- (f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

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#### **Sec. 3-2-7 Combined Assessments.**

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

#### **Sec. 3-2-8 Council'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 Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5 to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming be given by the City Clerk as provided in Section 3-2-6 of this Chapter.

#### **Sec. 3-2-9 Where Cost of Improvement is Less Than Assessment.**

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

#### **Sec. 3-2-10 Appeals; Appealed Assessments Payable When Due.**

- (a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Section 66.0703(12) of the Wisconsin Statutes, as amended, within forty (40) days of the date of the final determination of the Common Council.
- (b) Pursuant to Section 66.60(t), 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. 3-2-11 Payment of Special Assessments; Special Assessments A Lien on Property**

- (a) Payment of Special Assessment
  - (1) **Without Interest.** Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Clerk within the grace period therein allowed and as allowed in the final resolution.
  - (2) **Installments.** As set forth in the final resolution, the Common Council may allow any special assessment, when they exceed One Hundred Dollars (\$100.00), to be paid in equal installments, equivalent to the length of time of any bond issuance that is issued for said improvements (the "Financing"), together with interest at the rate determined by the Common Council, uniform with other City special assessments, at a rate equal to one percent (1%) over the interest rate for the Financing.

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- (3) **After Grace Period.** If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at time of preparation of the first tax roll thereafter, the same together with interest computed thereon at the interest rate established in the final resolution and in said certificates computed thereon from the date of levy (i.e. date of final resolution) or the finalizing of assessable costs whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owing at any time on principal together with interest to the date of payment only.
- (b) **Assessment as Lien.** Pursuant to Subsection (13) of Section 66.0703, Wisconsin Statutes, any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as 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. 3-2-12 Special Charges Permissible.

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution setting forth the property location, the current service rendered by the City and the special charge therefor or cost thereof. Such resolution for special charges 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 and water service and tree care or removal. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk, curb or gutter repair, a Class 1 notice published in the official City newspaper at least twenty (20) days before the hearing or proceeding 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 Common Council as to whether the service in question shall be performed.
- (b) Special charges for current services shall not be payable installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Section 66.0627 of the Wisconsin Statutes, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by Section 66.0627 of the Wisconsin Statutes, as amended.
- (c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.  
*State Law Reference:* Section 66.0627, Wis. Stats.

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### **Sec. 3-2-13 Miscellaneous Provisions.**

- (a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Common Council 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 City 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. 3-2-14 Special Assessment Payment Policies on Curb and Gutter, Sanitary Sewer and Water-mains.**

Special assessments levied on any parcel of real estate for curb and gutter, sanitary sewer and water-mains:

- (a) May, when they exceed One Hundred Dollars (\$100.00), be paid in equal installments, equivalent to the length of time of any bond issuance that is issued for said improvements (the "Financing"), together with interest at the rate determined by the Common Council, uniform with other City special assessments, at a rate equal to one percent (1 %) over the interest rate for the Financing together with engineering and administrative fees equal to seven and one-half percent (7.5%) of the project cost shall be added to the Special Assessment cost.
- (b) Shall not be transferred to a new owner and shall be immediately due and payable to the City when the parcel of real estate is sold, assigned, or conveyed.