

CHAPTER 2

Special Assessments

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SEC. 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENTS

- (a) The City of Thorp, 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 provided 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 special assessments 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: Section 66.62, Wis. Stats.

SEC. 3-2-2 RESOLUTION AND REPORT REQUIRED

- (a) Public improvements carried out pursuant to Section 66.60 Wis. Stats. and this Chapter shall be initiated by resolution, 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 or Consulting City Engineer to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk-Treasurer to the Director of Public Works or Consulting City Engineer. The City Clerk-Treasurer 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 and Consulting City Engineer. Upon receipt of copy of such preliminary resolution, the Director of Public Works or Consulting City Engineer 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 or a statement of the final cost of the work, service or improvement if completed.
 - (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 cases, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
- (5) 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 Section 66.60(3), Wis. Stats., and Subsections (1) 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.

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

- (a) **Initial Construction of Improvements.** The initial construction and installation costs of streets, street surfaces, storm sewers, sidewalks, curb and gutter, and/or water and sanitary sewer utilities may be assessed against abutting or benefited properties whenever City Council determines that such assessments are necessary or desirable. Assessments for street and storm sewer improvements shall be levied proportionally based upon each abutting owner's lineal front footage. Assessments for street surfaces, sidewalks, curb and gutter, and/or water and sanitary sewer utilities shall be made on the basis of the Assessment Formulas set forth below.
- (b) **Street Surface Improvements.**
 - (1) **Assessability.** Costs for Street Surface Improvements shall be assessable only if a majority of abutting property owners request the improvement of a Street Surface, and the City Council determines that such improvements are necessary or desirable. The phrase, "Street Surface Improvement" means the pulverizing, removal, construction and/or reconstruction of bituminous or concrete pavement, including the milling and overlay of street pavement but not including the construction or reconstruction of a gravel base and its grading.
 - (2) **Assessment Formula.** Assessments shall be levied

proportionally based upon each abutting owner's lineal front footage. One Hundred (100%) percent of the costs shall be assessed against the abutting owners.

(c) Sidewalk Improvements.

- (1) Assessability. Costs for Sidewalk Improvements shall be assessable only if a majority of abutting property owners request the improvement of a Sidewalk, and the City Council determines that such improvements are necessary or desirable. The phrase, "Sidewalk Improvement" means the repair, removal of, construction and/or replacement of sidewalk.
- (2) Assessment Formula. Assessments shall be levied proportionally based upon each abutting owner's lineal front footage. One Hundred (100%) percent of the costs shall be assessed against the abutting owners.

(d) Curb and Gutter Improvements.

- (1) Assessability. Costs for Curb & Gutter Improvements shall be assessable only if a majority of abutting property owners request the improvement of Curb & Gutter, and the City Council determines that such improvements are necessary or desirable. The phrase, "Curb and Gutter Improvement" means the repair, removal of, construction and/or replacement of Curb & Gutter.
- (2) Assessment Formula. Assessments shall be levied proportionally based upon each abutting owner's lineal front footage. One Hundred (100%) percent of the costs shall be assessed against the abutting owners.

(e) Stormwater Management System.

- (1) Definitions. In this Section:
 - a) Basin Map means the Basin Map in Appendix 1 of the 2013 Storm Water Management Plan of the City of Thorp, Wisconsin.
 - b) Duplex means a residential dwelling having two dwelling units.
 - b) Dwelling unit means a room or group of rooms including cooking accommodations, occupied by one family, and in which not more than two persons, other than members of the family, are lodged or boarded for compensation at any one time.
 - c) Equivalent Runoff Unit or "ERU" is the basic unit by which an assessment is calculated under this Section and is based upon the

impervious area reasonably determined by the city.

- c) Impervious Area means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. The term includes, without limitation due to enumeration, all areas covered by structures, roof extensions, patios, porches, driveways, loading docks and sidewalks, and semi-impervious surfaces such as compacted gravel, all as measured on a horizontal plane.
- d) Multifamily unit means any residential property comprised of three or more dwelling units.
- e) Nonresidential property means a lot or parcel of land, with improvements such as a building, structure, grading or substantial landscaping, which is not residential property, excluding publicly owned rights of way, airport runways, airport taxiways, recreational trails, and publicly owned or privately-owned rail beds utilized for railroad transportation.
- f) Residential property means a lot or parcel of land developed exclusively for residential purposes, including single-family units and duplexes not exceeding one acre in area, and multifamily units. The term includes manufactured homes.
- g) Single family unit means any residential property, including manufactured homes, consisting of one dwelling unit.
- h) Stormwater Management System is defined in Section 8-6-3(cc) of these Ordinances.
- i) Stormwater Management System Improvements includes, but is not limited to, the repair, removal of, construction, improvement and/or replacement of the Stormwater Management System.
- j) Undeveloped property means property that is not developed by the addition of an improvement such as a building, structure, grading or substantial landscaping. A property shall be considered to be developed if: (i) A certificate of occupancy has been issued for a building or structure on the property or, if no certificate of occupancy has been issued,

upon substantial completion of construction or final inspection; or (ii) Construction of an improvement on the property is at least 50 per cent completed and such construction has ceased for a period of at least 3 months, whether consecutive or not.

- 1) Watershed Basin Districts means the basins labelled A through J that are shown on the Basin Map.
- (2) Assessment classifications. For the purpose of making assessments under this section, all lots and parcels of land in the city shall be classified into the following assessment classifications:
 - a) Residential single-family unit
 - b) Residential duplex
 - c) Residential multifamily
 - d) Nonresidential
 - e) Undeveloped
- (3) The ERU for the assessment classifications shall be established as follows:
 - a) Residential single-family unit: one ERU
 - b) Residential duplex: 0.5 ERU times each dwelling unit
 - c) Residential multifamily: 0.4 ERU times the number of dwelling units within the multifamily dwelling
 - d) Nonresidential: one ERU times a factor obtained by dividing the total impervious area of the nonresidential property by the square footage equivalent for one ERU. Such impervious area shall be determined based on the best information reasonably available. The result shall be rounded down to the nearest five-tenths (0.5). The minimum charge for a nonresidential property shall be equal to the rate for five-tenths (0.5) of one ERU.
 - e) Undeveloped property: ERU shall be based on a factor established by city council resolution from time to time.
- (4) Assessability. The costs for Stormwater Management System Improvements shall be charged or allocated to each Water Basin District separately. The costs for Stormwater Management System Improvements shall be assessable whenever the City Council determines that such improvements

are necessary or desirable.

(5) **Assessment Formula.** Assessments shall be levied separately for fifty (50%) percent of the costs assigned to each Water Basin District. The assessment shall be based proportionally upon the ERU of a lot divided by the total number of ERUs that exist in the Water Basin District.

(f) Water & Sanitary Sewer Utility Improvements.

- (1) **Assessability.** Costs for Water & Sanitary Sewer Utility Improvements shall be assessable whenever the City Council determines that such improvements are necessary or desirable and the improvements are to be installed to replace improvements that are 40 years or older. The phrase, "Water & Sanitary Sewer Utility Improvements" includes, but is not limited to, the repair, removal of, construction and/or replacement of water and sanitary sewer mains, sewer laterals within the street right-of-way, and water services from the main to the shut off valve, hydrants, valves, fittings, and castings. Assessments on one-family residential parcels shall be limited to capacities and standards required for residential use. For example, the standard for a residential water main is 6 inches, and the standard for a residential sanitary sewer main is 8 inches. If the City Council determines that a main having a greater capacity is necessary or desirable (e.g. 8 inch water main, or a 12-inch sanitary sewer main), the City shall be responsible for paying the difference in cost.
- (2) **Assessment Formula.** Assessments shall be levied proportionally based upon the number of service connections that exist or can be reasonably expected to be made in the future. Fifty (50%) percent of the costs for replacement of Water & Sanitary Sewer Utility Improvements that are 40 years or older shall be assessed against abutting or benefited properties. No assessments shall be made for the costs for replacement of Water & Sanitary Sewer Utility Improvements that are less than 40 years old. The age of a Water and/or Sanitary Sewer Utility Improvement to be replaced shall be based on the oldest main that will be replaced in the project area.

(g) General Provisions.

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 this section. The maximum term of any assessment shall be 10 years, but the City Council may designate a shorter term at its discretion.

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS

- (a) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefore, such assessment shall be computed and shall be paid by the City.
- (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-Treasurer required in Section 3-2-2(b)(5) of this Chapter, the City Clerk-Treasurer or Consulting City Engineer shall prepare a Notice of Hearing, which notice shall comply with Section 66.60(7), 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-Treasurer 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-Treasurer 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 publication or mailing of said notice.

- (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 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 hereinbefore provided excepting for the notice 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 or Consulting City Engineer with such directions as it deems necessary to accomplish a fair and equitable assessment.
 - (2) Continue the public hearing, tentatively approve and proposed plans and specifications and, when necessary, authorize and direct the advertisement for bids therefore 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 Clerk-Treasurer 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 66.60(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-Treasurer 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.

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 Clerk-Treasurer 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 66.60(12) Wis. Stats., within forty (40) days of the date of the final determination of the Common Council.
- (b) Pursuant to Section 66.60(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.

**SEC. 3-2-11 PAYMENT OF SPECIAL ASSESSMENTS; SPECIAL
ASSESSMENT A LIEN ON PROPERTY**

- (a) **Payment of Special Assessments.**
 - (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-Treasurer within the grace period therein allowed and as allowed in the final resolution.
 - (2) 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 said final resolution and in said certificates computed 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 date of payment only.

- (b) **Assessment a Lien.** Pursuant to Section 66.60(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 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 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. 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 of the Common Council allocating all or part of the charges to the property served. Such resolution shall set forth the property location, the service rendered by the City and the special charge therefore or cost thereof. The 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 Common Council shall have the option of providing notice of such charges except notice is required in the case of street, sidewalk, curb or gutter repair. If notice is required or provided, the City shall publish a Class 1 notice in the official City newspaper at least twenty (20) days before the hearing or proceeding and shall mail a copy of such notice 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 in 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 Wis. Stats. 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 Wis. Stats.
- (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.

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 benefitted 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 benefitted either before or after the approval of the work plans and specifications, contracting for the work or improvement.