

**TOWN OF SPENCER
SPECIAL ASSESSMENT ORDINANCE**

SPECIAL ASSESSMENTS

Adopted: _____, 2020

Section 1. Town Board May Levy Special Assessments.

- A. The Town of Spencer 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 out of the proceeds of the special assessment.
- 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. For those assessments representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Town Board.

Section 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, and the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing under Section 5 of this ordinance 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, in an instance where the work or improvements constitute an exercise of the police power. In such case, the estimate required under Subsection B(3) shall be replaced by a schedule of the proposed assessments.

C. A copy of the report when completed shall be filed with the Town Clerk for public inspection.

Section 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, including, but not limited to, a town's public works director or equivalent position. 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.

Section 4. Exemptions; Deductions.

- A. If any property deemed benefited shall, by reason of any provision of law, be exempt from assessment therefor, then such assessment shall be computed and shall be paid by the Town.
- B. If the Town, now or in the future, maintains a sanitary sewer or municipal water services, then 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.

Section 5. Notice of Proposed or Approved Project.

On the completion and filing of the report required in Section 2 of this ordinance, 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 public places and a copy of said notice shall be mailed to each interested person whose post office address is known. The notice shall be published as a Class 1 notice, under Ch. 985, Wis. Stats. 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.

Section 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 is made against any property and an award of compensation or damage is 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. 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. 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 5 of this ordinance.

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 and limits to appeal set forth by § 66.0703(12), Wis. Stats., or any other applicable provision of state law.

Section 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.

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

Section 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.

Section 10. Appealed Assessments Payable When Due.

Pursuant to § 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.

Section 11. Special Assessment a Lien on Property.

Pursuant to § 66.0703(13), Wis. Stats., any special assessment levied under this ordinance shall be a lien on the property against which it is levied on behalf of the Town or appropriate utility district. 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.

Section 12. Miscellaneous Provisions.

- A. If any assessment or charge levied under this ordinance 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 ordinance or other ordinance or resolution, it is specifically intended and provided by this ordinance 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.

Approved by the Town Board at its meeting on _____,
2020.

ATTEST:

Town Clerk

(Publish according to law.)

(To be published or posted, pursuant to Wis. Stats. § 60.80(1).)