

Chapter 12

ASSESSMENTS, SPECIAL

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[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Title 3, Ch. 2 of the 1992 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 232.

§ 12-1. Levy and collection.

A. The Village of Albany, by resolution of its Village 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 Village Board.

State Law Reference: W.S.A. s. 66.62.

§ 12-2. Resolution and report required.

A. Prior to making any such special assessments, the Village 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 § 12-5 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 estimates required under Subsection B(3) shall be replaced by a schedule of the proposed assessments.

(5) A copy of the report when completed shall be filed with the Village Clerk-Treasurer for public inspection.

C. 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 W.S.A. s. 66.60(3) and Subsections A and B above shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

§ 12-3. Costs covered 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 village 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 Village Board.

§ 12-4. Exemptions.

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 village.

§ 12-5. Notice of proposed or approved project.

On the completion and filing of the report required in § 12-2B(5), the Village Clerk-Treasurer 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 Village 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 village newspaper or posted in not less than three public places within the village, 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 10 days and not more than 40 days after the publication or posting of said notice.

§ 12-6. Board actions after hearing.

A. After the hearing, the Village Board may approve, disapprove, modify or 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 Village Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.

C. Approval prior to work.

(1) If the work or improvement has not been previously authorized or approved, the Village 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 Village Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Village Board shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.

D. The Village Clerk-Treasurer shall publish the final resolutions as required in § 12-5.

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 W.S.A. s. 66.60(12), or any other applicable provision of law.

§ 12-7. Board's power to amend, cancel or confirm special assessment.

If after completion or after the receipt of bonds 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 Village Board determines to reconsider an assessment, it is empowered, after giving notice as required in § 12-5, to amend, cancel or confirm any prior assessment, and notice of this amending, canceling or confirming shall be given by the Village Clerk-Treasurer as provided in § 12-6.

§ 12-8. Where cost of improvement is less than assessment.

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

§ 12-9. Appealed assessments payable when due.

Pursuant to W.S.A. s. 66.60(12)(f), 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.

§ 12-10. Special assessment to be lien on property.

Pursuant to W.S.A. s. 66.60(15), any special assessment levied under this chapter shall be a lien on the property against which it is levied on behalf of the village. The Village Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Village 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.

§ 12-11. Special charges permissible.

A. In addition to all other methods provided by law, special charges for current services may be imposed by the Village 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 Village Board, except that in the case of street, sidewalk, curb or gutter repair, 20 days' notice shall be given, published in the village newspaper or by posting such notice in three places in the village, and a copy of such notice mailed to every interested person whose post office address is known at least 10 days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Village Board as to whether the service in question shall be performed. Amounts less than \$100 shall be paid in one installment.

B. Such special charges shall not be payable in installments. If not paid within the period fixed by the Village Board, such delinquent charge shall become a lien as provided in § 12-10.

C. Section 12-2A shall not be applicable to proceedings under this section.

State Law Reference: W.S.A. s. 66.60(16).

§ 12-12. Miscellaneous provisions.

A. If any assessment or charge levied under this chapter is invalid because such statutes are found to be unconstitutional, the Village Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.

B. The Village 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 village 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.

§ 12-13. Special assessment B bonds.

As an alternative to any other financing method, the Village Board may provide for the payment of the initial cost of any public improvement from the proceeds of special assessment B bonds issued under W.S.A. ss. 66.60(10) and (11). Special assessments to return such bonds and pay the interest thereon shall be levied under W.S.A. s. 66.60, payable in such installments at a rate to be determined by the Board based upon borrowed money rates at the time of the special assessment.