

Title 3 ♦ Chapter 2

Special Assessments

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Sec. 3-2-1 Procedure for Obtaining Public Improvements.

(a) **Petition.**

- (1) Property owners desiring sewer, water, curb and gutter, sidewalk or street improvements should file a petition with the Village Clerk-Treasurer. Sample petitions are available at the office of the Village Clerk-Treasurer. Petitions should be on file with the Clerk-Treasurer before September 30th in order to be considered in the budget for the following year.
- (2) Normally the Village Board approves petitions which are signed by property owners who own over fifty percent (50%) of the frontage abutting the proposed improvement. However, the Village Board has authority to reject any petition and on its own motion, order a public improvement.
- (3) Where a property owner or group of property owners desire assessable improvements but can not obtain the necessary signatures to represent over fifty percent (50%) of the abutting frontage, they may request the extension of the service under the "Cost Advancement" policy of the Village of Merrilan. Such a request should be made by placing a letter on file with the Village Clerk-Treasurer. The letter should contain the same information required by the petition. The amount of construction authorized as a result of a petition is limited by the Village budget; additional work is delayed until funds are available.

- (b) **Initial Resolution.** Following receipt of a valid request for improvements, the Village Board will adopt an initial resolution indicating:

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- (1) General description of project.
 - (2) Intent to assess property owners for improvements.
 - (3) Limits of assessment district.
 - (4) Method of paying assessments or indication that method will be established at public hearing.
- (c) **Committee Report.** At the request of the Village Board, the Committee of the Whole, with assistance of an engineer retained for the project, will prepare a report, to be placed on file in the office of the Village Clerk-Treasurer, including:
- (1) Feasibility determination.
 - (2) Preliminary plans.
 - (3) Cost estimate.
 - (4) Proposed assessment method.
 - (5) Recommendation to the Village Board.
- (d) **Public Hearing.** The Village Board will hold a public hearing, based on preliminary plans and cost estimates, prior to levying assessments. The hearing may be waived if one hundred percent (100%) of the adjacent property owners have signed the petition requesting the service. If the public hearing is unsuccessful because of excessive opposition to the levying of assessments to abutting property owners, the project may be paid for on the "Cost Advancement" basis.
- (e) **Plans and Specifications.** The Board may authorize preparation of final plans and specifications for the proposed construction.
- (f) **Final Resolutions.** Following the public hearing, the Board may approve, disapprove or modify the proposed project. When the Board feels the project and assessments are acceptable, a final resolution will be adopted to legally authorize the work.
- (g) **Construction.** The resolution authorizes the Board to carry out the construction of the improvement. Water main construction may be supervised by the Committee of the Whole.
- (h) **Collection of Assessments.** As soon as a contract for any part of the improvement has been awarded, the special assessments may be collected in accordance with this policy.

Sec. 3-2-2 Definitions.

As used in this Chapter:

- (a) **Sewer Main.** Sanitary sewer eight (8) inches in diameter or larger installed within a public easement or right-of-way for the purpose of serving adjacent properties.
- (b) **Sewer Lateral.** Sanitary sewer connecting a single property or building with the sewer main.
- (c) **Water Main.** Water main four (4) inches in diameter or larger installed within a public easement or right-of-way.
- (d) **Water Lateral.** Water line connecting a single property or building to a water main.

- (e) **Lot.** A parcel of land adequate in size to allow construction of a residential dwelling in accordance with Village requirements. Property of sufficient size to be developed as more than one (1) lot shall not be considered a lot when determining maximum assessments as irregular shaped lots or as lots with double frontage.
- (f) **Corner Lot.** A lot with adjacent sides fronting on streets with the frontage on the two (2) streets equal to approximately fifty percent (50%) of the perimeter of the lot.

Sec. 3-2-3 Special Considerations.

- (a) **Lots with Double Frontage.** Where lots front on two (2) streets on opposite sides and do not classify as a corner lot, the following procedure shall be followed. The lots shall be assessed for one hundred percent (100%) of the frontage on the first side served and for twenty percent (20%) of the frontage on the second side.
- (b) **Corner Lots.** If service is given on the short side of the lot, the assessment will be for one hundred percent (100%) of the frontage on the short side. If service is provided only on the long side of the lot, the lot shall be assessed for the frontage on the short side, plus the frontage on the long side exceeding one hundred thirty-two (132) feet.
- (c) **Irregular Shaped Lots.** Lots which front on more than two (2) streets and classify as a corner lot shall be assessed as a corner lot. The maximum combined assessable frontage shall not be greater than the length of the longest side exceeding one hundred thirty-two (132) feet plus the length of the second longest side.
- (d) **Direct Benefit/Frontage.**
 - (1) If lots should exist with little or no actual frontage abutting the improvements but a direct benefit is realized from the improvement, the lot should be assessed on the minimum front footage allowable under the zoning ordinance of that area.
 - (2) Lots which have frontage of twenty percent (20%) or twenty percent (20%) less than the average width of the lot shall be measured at a point twenty (20) feet back from the street line and parallel to the street in order to determine assessable frontage.
- (e) **Length of Extension.** Platted lots served by the sewer or water extensions shall be assessed for the full footage, whether or not the main abuts the full frontage. Unplatted areas shall be assessed only for frontage abutting the sewer or water main unless the main adequately serves the full frontage.
- (f) **Existing Facilities.** Property presently served by mains not fronting on the property and property being served by sewers or water mains not classified as main sewers or water mains and not previously assessed will be assessed for new mains at one-half the regular assessment rate.
- (g) **Replacement and Maintenance.** The Village shall maintain sewer and water mains and replace sections where necessary without any additional assessment to the properties.

Sec. 3-2-4 Cost Advancement Method.

Improvements shall be financed by cost advancements when deemed advisable by the Village Board. In general, the cost advancement method shall be used only when application is made for improvements which would require the extensions through sparsely occupied areas to serve such applicant, or through areas which in the judgment of the Village Board are unlikely to develop extensively within the next ten (10) years. Where extensions are authorized on a cost advancement basis, the procedure shall be as follows:

- (a) The applicant shall deposit with the Village Clerk-Treasurer a sum equal to the estimated total amount that would have been assessed to all property which would have been assessed under the front foot method.
- (b) Such deposit shall be made before construction is started or contracted. If the actual apportionable cost shall be less than the amount deposited, the excess of the deposit over the cost shall be refunded to the applicant within thirty (30) days after payment for the completed project. If the apportionable cost shall exceed the deposit, the applicant shall pay the deficiency prior to the granting of sanitary sewer service.
- (c) When additional customers are connected to a sanitary sewer main which was originally financed in part by customers, the Village will require a contribution from each new customer in an amount necessary to equalize the average contribution. When the amount of customer contribution computed under this method is less than would have been assessed under the normal front foot method, the applicant for service shall pay an amount equivalent to the assessment, plus an amount as determined by the Village Board for accumulated interest. This amount shall then be refunded pro rata to all contributors along the extension whose remaining contribution still exceeds what would have been assessed under the normal method.
- (d) When refunds have reduced the contribution of any contributor to the applicable assessment per front foot, no further refund will be made to that individual. After all refunds have been made, the remaining premises that may connect will be charged at the rate per front foot established for the extension.
- (e) All connection charges collected by the Village under Section 3-2-3 herein shall be paid to the applicant or his/her assigns or heirs unless specifically provided otherwise in writing.
- (f) When an extension beyond an existing extension is required to serve a new customer, and the cost for a customer exceeds the average remaining contribution in the original extension, then the new extension will be considered as an entirely new project, without refunds or other connection with the original extension.
- (g) The development period during which refunds shall be made will be limited to twenty (20) years.

Sec. 3-2-5 Payment of Assessments.

- (a) Special assessments shall be paid prior to the first December 1 following receipt of billing of the assessable improvement. Assessments not paid prior to December 1 will be placed

on the tax rolls for collection over such time as determined by the Village Board but not to exceed a twenty year period with an interest rate of one percent (1%) over the "borrowing rate" per year charged beginning December 1. "Borrowing Rate" shall be the interest rate at which the Village obtains financing for the project.

- (b) In certain special instances or in cases of hardship the Village Board may authorize payment in up to twenty (20) equal annual installments with an interest rate of one percent (1%) over the Borrowing Rate per annum on the unpaid balance.
- (c) When the total assessment for various improvements exceeds One Thousand Dollars (\$1,000.00) and when the property is undeveloped or unplatted the Owner may petition the Village for an extension of time for repayment not to exceed twenty (20) years. Payments may be deferred by a majority vote of the Village Board. Deferred payments may be made in equal annual installments or in a lump sum at the end of the deferral period. The assessment shall bear an interest rate of one percent (1%) over the Borrowing Rate per annum from the date of deferment. The interest on the unpaid balance shall become due and payable annually on January 31st, commencing on the first January 31st, after the date of deferment. If the date of deferment is other than January 31st interest due on the first and last year will be calculated for the portion of the year from the date of deferment to January 31st.
 - (1) The Village may waive the interest on deferred payments providing the property owners dedicate the necessary right-of-way for construction purposes.
 - (2) Property owners may apply for an extension of the deferment if the property remains unimproved at the end of the deferment period upon approval by the majority vote of the Village Board.

Sec. 3-2-6 Water Main Extensions.

Extensions of water mains shall be allowed when it is determined by the Utility Committee to be in the best interest of the public health and safety. Extensions and construction of water mains shall be in accordance with the rules of the water utility:

- (a) **Assessment Rate.**
 - (1) *Determination.* Special assessments for water main shall be determined according to benefits and levied on a front foot basis. The amount levied for each front foot of benefiting abutting property on each side of the street shall be determined as follows:
 - (2) *Total Assessable Cost.* The total estimated assessable cost of the extension, including legal services, finance carrying charges, engineering, inspection, grading and the necessary street resurfacing, and other direct and indirect costs, shall be determined. Such amount shall be divided by the total number of assessable front feet of property served by the main.
- (b) **Costs Not Assessable.**
 - (1) *Water Main.* The portion of any water main in excess of eight (8) inches in diameter except when service required is more than normally required as in the case of

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"sprinklered" buildings. When more than normal services is requested by the customer, the customer shall pay all additional costs incurred as a result of the special service. For purposes of this policy, normal service shall be considered to be five hundred (500) g.p.m. at a residual pressure of twenty (20) p.s.i.

- (2) **Fire Hydrants.** Appurtenances installed for fire protection such as hydrants, hydrant valves and hydrant leads shall be unassessable.
- (3) **Excessive Non-Assessable Frontage.** When the non-assessable frontage exceeds twenty percent (20% of the total frontage for the project, the Village shall be responsible for the amount of assessment that would be levied against the properties in excess of twenty percent (20%).
- (4) **Replacement of Existing Water Mains.**
 - a. Property not previously assessed for existing mains, which are presently inadequate, will be assessed for new mains at one-half (1/2) the regular assessment rate. Property previously assessed for water service will not be assessed for main replacement.
 - b. Property presently served by water main not fronting on the property shall be assessed for new extensions fronting on the property at one-half the regular assessment rate.
 - c. Property presently served by private lines will be assessed for new mains at one-half the regular assessment rate. The Utility Committee shall determine whether existing lines classify as private lines.
 - d. Replacement of existing water services. When existing services are deemed inadequate because of deterioration, the cost of replacement shall be non-assessable.
 - e. Connection of existing services to new mains. The Village will connect existing services to new water mains during replacement of private lines or inadequate mains. All related costs for this construction shall be non-assessable.
- (c) **Water Services Required.** Water services shall be extended to the property line in platted areas and to all improved properties:
 - (1) When new water extensions are completed.
 - (2) Before curb and gutter is installed in the street.
 - (3) Before any street is paved or reconstructed.
 - (4) One (1) service shall be extended for each lot or building to be served.
- (d) **Water Services Not Required.** Water services will not be required on the following unimproved properties:
 - (1) Vacant lot or portion of a lot which is too small for a building lot under the Village Building Code and Zoning Ordinance and including where the present dwelling is located on a portion of two (2) or more lots precludes the possibility of another dwelling being placed thereon.
 - (2) Heavy industrial areas.
 - (3) Light industrial areas.

- (4) Properties which, in the judgment of the Village Board, will not likely develop in the foreseeable future or where the pattern of development cannot be determined.
- (e) **Charges for Services.** The entire cost of installing and maintaining water services shall be paid by the lot owners. The Village may install services where necessary and charge the cost to the property owners.
- (f) **Water Boost Stations.** The entire costs of providing water pressure booster stations and related appurtenances shall be assessable to the properties benefiting from the water pressure booster.

Sec. 3-2-7 Sanitary Sewer Extensions.

Extensions of sanitary sewers shall be allowed when it is determined by the Village Board to be in the best interest of the public or necessary for public health and safety:

- (a) **Assessment Rate.**
 - (1) **Benefits Basis.** Special assessments for sanitary sewers shall be determined according to benefits and levied on a front foot basis. The amount levied for each front foot of benefitting abutting property on each side of the street shall be as determined in Subsection (a)(2).
 - (2) **Total Assessable Cost.** The total estimated assessable cost of the extension, including legal services, finance carrying charges, engineering, inspection, grading and the necessary street resurfacing, and other direct and indirect costs, shall be determined. Such amount shall be divided by the total number of assessable front feet of property served by the sewer.
- (b) **Costs Not Assessable.**
 - (1) **Sanitary Sewers.** The portion of any sewer main larger than eight (8) inches in diameter except when service required is more than normally provided, as in the case of "wet" industries. When more than normal service is requested by a consumer, the consumer shall pay all additional costs incurred as a result of the special service.
 - (2) **Excessive Non-Assessable Frontage.** When the non-assessable frontage exceeds twenty percent (20%) of the total frontage for the project, the Village shall be responsible for the amount of assessment that would be levied against the property in excess of twenty percent (20%).
 - (3) **Replacement of Existing Sewers.**
 - a. Property not previously assessed for existing sewers which are presently inadequate shall be assessed at one-half (1/2) the regular assessment rate. Properties previously assessed for sewer services shall not be assessed for sewer replacement.
 - b. Property presently served by sewers not fronting on the property shall be assessed for new extensions fronting on the property at one-half (1/2) the regular assessment rate.

- c. Property presently served by private lines will be assessed for new services at one-half (1/2) the regular assessment rate. The Village shall determine whether existing lines classify as private lines.
- (4) **Replacement of Existing Laterals.** When existing laterals are deemed inadequate because of deterioration, the costs of replacement shall be non-assessable.
- (5) **Connection of Existing Laterals to New Sewers.** The Village will connect existing laterals to new sewers during replacement of private lines or inadequate sewers. All related costs for this construction shall be non-assessable.
- (c) **Laterals Required.** Laterals shall be extended to the property line in platted areas, and all improved properties:
 - (1) When new sewer extensions are completed.
 - (2) Before curb and gutter is installed in the street.
 - (3) Before any street is paved or reconstructed.
 - (4) One (1) lateral shall be extended for each lot or building to be served.
- (d) **Laterals Not Required.** Laterals will not be required on the following unimproved properties:
 - (1) Vacant lot or portion of a lot which too small for a building lot under the Village Building Code and Zoning Ordinance and including where the present dwelling is located on a portion of two (2) or more lots precludes the possibility of another dwelling being placed thereon.
 - (2) Heavy industrial areas.
 - (3) Light industrial areas.
 - (4) Properties which, in the judgment of the Village Board, will not likely develop in the foreseeable future or where the pattern of development cannot be determined.
- (e) **Charge for Laterals.** The entire cost of installing and maintaining sewer laterals shall be paid by the lot owners. The Village may install laterals where necessary and charge the cost to the property owners.
- (f) **Sewage Lift Stations.** The entire costs of sewage pumping stations and appurtenances shall be assessable to the benefitting properties.

Sec. 3-2-8 Street and Sidewalk Improvements.

The Village improves streets and sidewalks at the request, by petition, of adjacent property owners and where it becomes necessary to facilitate the movement of traffic. Normally the Village will improve segments of one (1) block in length or more. Smaller units will be allowed only by special consideration of the Board:

- (a) **Right-of-Way.** The right-of-way is dedicated in all plats. No street will be improved unless adequate right-of-way has been established.
- (b) **Grading.** When requested or necessary, the Village will grade streets. The total cost of this grading shall be paid for entirely by the adjoining property owners. The total estimated

apportionable cost of the improvement, including legal services, finance carrying charges, engineering and inspection, and other direct and indirect costs, shall be determined. Such amount shall be divided by the total number of assessable front feet of property served by the street.

- (c) **Gravel Base Course.** When requested or necessary to facilitate the movement of traffic, the Village will provide gravel base course on streets only after grading has been completed. The total cost of this gravel base course shall be paid for entirely by the adjoining property owners. The total estimated apportionable cost of the improvement, and other direct and indirect costs, shall be determined. Such amount shall be divided by the total number of assessable front feet of property served by the street. Graveled surfaces previously assessed shall be maintained and replaced as necessary by the Village.
- (d) **Curb and Gutter.**
- (1) Curb and gutter shall be installed only after a petition has been approved by the Village Board. The Village Board of the Village of Merrilan reserves the right to construct curb and gutter at the expense of the abutting property owners as a part of any street improvement project and to authorize the construction of said curb and gutter as part of the contract for the street improvements.
 - (2) New curb and gutter shall be installed in units of one (1) block or more and shall be installed only after adequate storm sewers or surface drainage facilities have been provided for.
 - (3) The total cost of curb and gutter shall be paid by adjacent property owners. The method of determining the assessment rate shall be as prescribed in Subsection (d)(4).
 - (4) The total estimated apportionable cost of the improvement, including legal services, finance carrying charges, engineering, inspection, grading and the necessary street resurfacing, and other direct and indirect costs, shall be determined. Such amount shall be divided by the total number of assessable front feet of property served by the new curb and gutter. In calculating the special assessment for curb and gutter, the provisions of Section 3-2-3. Special considerations shall be used in the same manner as calculating a special assessment for water and/or sewer main.
 - (5) Curb and gutter previously assessed shall be maintained and replaced as necessary by the Village.
- (e) **Street Surfaces.** Graded and gravelled streets in all improved areas as required for the movement of traffic will be provided under Subsections (b) and (c). Additional improvements to the street surface will be considered by the Village as requested by petition of adjacent property owners, if underground improvements and curb and gutter have been installed. These additional improvements of street surfaces shall be paid for entirely by the benefited adjacent property owners. Any future maintenance or replacement of similar street surfaces shall be paid for entirely by the Village of Merrilan. In the case of new subdivisions or newly platted streets, the Village will not accept a street until the street has been topped with a hard surface, i.e., blacktop or concrete, in a manner acceptable to the Village.

- (f) **Alleys.** Alleys are generally not acceptable in new subdivisions. Dedicated alleys will be graded and graveled subject to the same conditions as for streets, as provided in Subsections (b) and (c).
- (g) **Driveways.** Property owners are responsible for construction and maintenance of driveways. Driveway openings are installed for existing homes when curb and gutter is installed. New driveway entrances must be concrete in the curb area and conform to the grade of a curb. Adequate provision shall be made to prevent debris from entering the street. All driveway entrances shall be subject to approval of the Street Superintendent.
- (h) **Sidewalks.**
 - (1) Sidewalks shall be installed as requested by petition by adjacent property owners and as ordered in by the Village Board.
 - (2) Total costs of sidewalk installation shall be paid by adjacent property owners. The method of determining the assessment rate shall be as prescribed in Subsection (h)(3).
 - (3) The total estimated apportionable cost of the improvement including legal services, finance carrying charges, engineering, inspection, grading and other direct and indirect costs shall be determined. Such amount shall be divided by the total number of assessable front feet of property benefitted.
 - (4) Sidewalks previously assessed for will be repaired and replaced as necessary by the Village of Merrilan.

Sec. 3-2-9 Storm Sewers.

- (a) It shall be the policy of the Village of Merrilan to bear the entire cost of storm sewers. Storm sewers are installed prior to street improvements and as needed to alleviate drainage problems.
- (b) The Village of Merrilan is not responsible for draining private property through laterals. In general, the Village will install inlets in the street and ditches to receive storm water.

Sec. 3-2-10 Special Assessments.

The Village of Merrilan, in addition to other methods provided by law, may special assess for any public work or improvement or any current service may be levied in accordance with the provisions of this section:

(a) Whenever the governing body shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this section, it shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessments will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of the assessments may be deferred while no use of the improvement is made in connection with the property.

(b) The provisions of 66.0701 and 66.0703, Stats., shall apply to special assessments levied under this section except that, when the governing body 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 66.0703(4), Stats., shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

(c) Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by 66.0703(7) and (B)(d), Stats.

(d) Any special assessment levied under this section shall be a lien against the property assessed from the date of the final resolution of the governing body determining the amount of the levy.

(e) Any person against whose property a special assessment is levied under this section may appeal therefrom in the manner prescribed by 66.0703(12), Stats., within 40 days of the date of the final determination of the governing body.

