

Chapter 78

TAXATION AND SPECIAL ASSESSMENTS*

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ARTICLE I. IN GENERAL

Sec. 78.100. Fees and charges.

All fees and charges under this chapter are set by the village board from time to time in the village fee schedule, and none of the provisions of this Code or the ordinance adopting this Code shall affect such fees and charges.

ARTICLE II. ROOM TAX*

Sec. 78.101. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross receipts has the meaning as defined in Wis. Stats. § 77.51(4)(a), (b) and (c) insofar as applicable.

Hotel or motel means as provided in Wis. Stats. § 66.75(1).

Transient means as provided in Wis. Stats. § 66.75(1).

(Ord. of 1-16-1989, § 1(1))

Cross References--Definitions generally, § 1.101.

Sec. 78.102. Penalty; forfeiture.

Any person who is subject to the tax imposed by this article who fails to obtain a permit as required in section 78.107, or who fails or refuses to permit the inspection of the lodging records by the village finance director/treasurer after such inspection has been duly requested by the village finance director/treasurer, or who fails to file a return as provided in this article, or who violates any other provisions of this article, shall be subject to, in addition to the other charges and penalties imposed by this article, a forfeiture not to exceed \$200.00 each day such violation continues; and each day in violation is deemed to constitute a separate offense.

(Ord. of 1-16-1989 and Ord. of 8-16-04, § 1(12))

* **State Law References**--Room tax generally, Wis. Stats. § 66.75.

Sec. 78.103. Penalty assessment.

If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a penalty of six percent per annum of the tax amount owed, exclusive of interest or other penalties. If a person fails to file a return when due, or files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this article, a penalty of 25 percent on the tax amount owed up to a maximum of \$500 shall be added to the tax required to be paid, exclusive of interest and other penalties.

(Ord. of 1-16-1989 and Ord. of 8-16-04, § 1(10))

Sec. 78.104. Interest.

All unpaid taxes under this article shall bear interest at the rate of twelve percent per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the village finance director/treasurer. All refunded taxes shall bear interest at twelve percent per annum from the due date of the return until the first day of the month in which the taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the village finance director/treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(9))

Sec. 78.105. Imposition of tax.

(a) Pursuant to Wis. Stats. § 66.0615, a tax is imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of seven percent of the gross receipts from such retail furnishings of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. § 77.52 (2)(a)1.

(b) Sales of rooms to the federal government, State of Wisconsin, Wisconsin local governmental units, and other entities holding tax-exempt certificates shall be exempt from the imposition of the room tax imposed under this article. The exemption shall be granted only if the following conditions have been met for any sale of a room:

- 1) The retailer shall bill the lodging in the name of the exempt entity;
and
- 2) The retailer must be provided with either:

- A) In the case of federal, State of Wisconsin or local governmental units, a tax-exempt status number and a letter of authorization or purchase order from the governmental unit, or
- B) In the case of other tax-exempt entities, the entities certificate of exempt status number.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(2))

Sec. 78.106. Tax moneys.

(a) *Collection of tax.* This section shall be administered by the village finance director/treasurer. The tax is imposed for each calendar quarter, or the first partial calendar quarter, is due and payable on the last day of the month succeeding the calendar quarter for which imposed. A return shall be filed with the village finance director/treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the village finance director/treasurer deems necessary. Every person required to file such quarterly return shall, with the first return, elect to file on an annual calendar year or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain such additional information as the village finance director/treasurer requires. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. Such annual returns shall be made on forms as prescribed by the village finance director/treasurer. All such returns shall be signed by the person required to file a return or duly authorized agent but need not be verified by oath. The village finance director/treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

(b) *Distribution of tax.* The room tax collection shall be allocated to a segregated fund of the village. Disbursement of room tax funds shall be governed by the finance committee and ratified by the village board. Room tax funds may be used for events, projects, or activities that generate or benefit tourism, or enhance the community and quality of life of the citizenship.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(3))

Sec. 78.107. Permit.

(a) Every person furnishing rooms or lodging under section 78.105 shall file with the village clerk an application for a permit to operate a hotel or motel for each place of business. Every application for a permit shall be made upon a form prescribed by the village clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business, and such other information as the village clerk requires. The application shall be signed by the owner if a sole proprietor

and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay to the village clerk a fee as provided in the village fee schedule for each permit.

(b) In order to protect the revenue of the village, the village clerk may require any person liable for the tax imposed by this article to place with the village clerk, before or after a permit is issued, such security or bond, as the village clerk determines. If any taxpayer fails or refuses to place such security or bond, the village clerk may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this article, the village clerk may, upon ten days' notice, recover the taxes, interest and penalties from the security or bond placed with the village clerk by such taxpayer. No interest shall be paid or allowed by the village to any person for the deposit of such security or bond.

(c) After compliance with subsections (a) and (b) of this section by the applicant, the village clerk shall grant and issue to each applicant a separate permit for each place of business within the village. Such permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated. It shall at all times be conspicuously displayed at the place for which issued.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(4))

Sec. 78.108. Revocation of permit.

Whenever any person fails to comply with this article, the village clerk may revoke or suspend any or all of the permits held by such person, upon ten days' notification and after affording such person the opportunity to show cause why the permit should not be revoked. The village clerk shall give to such person written notice of the suspension or revocation of any of such person's permits. The village clerk shall not issue a new permit after the revocation of a permit unless the village clerk is satisfied that the former holder of the permit will comply with the provisions of this article. The fee prescribed in the village fee schedule shall be imposed for the renewal or issuance of a permit that has been previously suspended or revoked.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(5))

Sec. 78.109. Sale of business.

If any person liable for any amount of tax under this article sells out the business or stock or goods or quits the business, such person's successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount of tax until the former owner produces a receipt from the village finance director/treasurer showing that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this article fails to withhold such amount of tax from the purchase price as required, the person shall become personally liable for payment of the amount required to be withheld to the extent of the price of the accommodations valued in money.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(6))

Sec. 78.110. Audit.

The village finance director/treasurer may, by office audit, determine the tax required to be paid to the village or the refund due to any person under this article. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the village finance director/treasurer's possession, or information such as that which would be gained from income tax returns that shall be furnished upon request of the village finance director/treasurer. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(7))

Sec. 78.111. Failure to file.

If any person fails to file a return as required by this article, the village finance director/treasurer shall make an estimate of the amount of the gross receipts under section 78.105. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information that is in the village finance director/treasurer's possession or which may come into the finance director/treasurer's possession. On the basis of this estimate, the village finance director/treasurer shall compute and determine the amount required to be paid to the village, adding to the sum thus arrived at a penalty equal to twelve percent of the required amount. One or more such determinations may be made for one or more than one period.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(8))

Sec. 78.112. Records and taxation.

(a) Every person liable for the tax imposed by this article shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the village finance director/treasurer requires.

(b) All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the village finance director/treasurer, are deemed to be confidential, except the village finance director/treasurer may divulge their contents to the following and no others:

- (1) The person who filed the return.
- (2) Officers, agents or employees of the Federal Internal Revenue Service or the Wisconsin Department of Revenue.

(3) The village assessor, village attorney, village clerk, village administrator, village president and village board.

(4) Such other public officials of the village when deemed necessary.

(c) No person having an administrative duty under this article shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this article, or the amount or source of income, profits, losses, expenditures or any particular, set forth or disclosed in any return, or to permit any return or copy to be seen or examined by any person, except as provided in subsection (b) of this section.

(Ord. of 1-16-1989, and Ord. of 8-16-04 § 1(11))

ARTICLE III. SPECIAL ASSESSMENTS*

Sec. 78.113. Purpose.

The purpose of this article is to provide for payment for the construction, reconstruction, improvement and preservation of the sidewalks, driveway approaches, streets, curbs, gutters, and sewer and water mains in the village by the levy of special assessments therefor upon various classes of real estate, in a fair and equitable manner, through the application of a variety of

* **State Law References**--Special assessments, Wis. Stats. §§ 66.60, 66.605, 66.62, 66.64.

formulas. All such levies shall be grounded in the exercise of the police powers of the village. No levies shall be grounded in the special assessment district concept, such as described in Wis. Stats. § 66.079.

(Ord. of 4-21-1998, § 1(13.05.010))

Sec. 78.114. Special assessment options.

(a) *Statutory procedures.* Pursuant to Wis. Stats. § 66.62, the village adopts the procedures for levying special assessments as contained in Wis. Stats. § 66.60, with the exception that the village may at its discretion use the following procedures in lieu of the procedures described in Wis. Stats. § 66.60(8)(c), (8)(d) and (8)(e):

- (1) When the board determines to proceed with the work or improvement, it shall approve the plans and specifications therefor and adopt a resolution directing that such work or improvement be carried out in accordance with the report as finally approved.

- (2) The village may adopt the final resolution to levy the special assessments either before the work is carried out or after the work is completed and actual project costs have been determined. The final resolution shall list the cost of the special assessment levied against each property benefitted by the improvement. The village clerk/treasurer shall publish the final resolution as a class 1 notice, under Wis. Stats. ch. 985, in the assessment district and a copy of such resolution shall be mailed to every interested person whose post office address is known, or can be ascertained with reasonable diligence.
- (3) When the final resolution is published, all awards, compensations and assessments arising therefrom are deemed legally authorized and made, subject to the right of appeal under Wis. Stats. § 66.60(12).

(b) *Developer financing.* Where the municipality is unwilling or unable to make a special assessment, the improvements will be made on a developer-financed basis as follows:

- (1) The applicants will advance as a contribution in aid of construction the total amount equivalent to that which would have been assessed for all property under subsection (a) of this section.
- (2) Part of the contribution required in subsection (b)(1) of this section will be refundable. When additional property is benefitted within ten years of the date of completion, which the original developer did not own or have an interest in at the time of the project, contributions in aid of construction will be collected equal to the amount which would have been assessed under subsection (a) of this section for the abutting property benefitted. This amount will be refunded to the original contributors. In no case will the contributions received from additional customers exceed the proportionate amount

which would have been required under subsection (a) of this section nor will it exceed the total assessable cost of the original extension. After ten years has elapsed there will be no refunds.

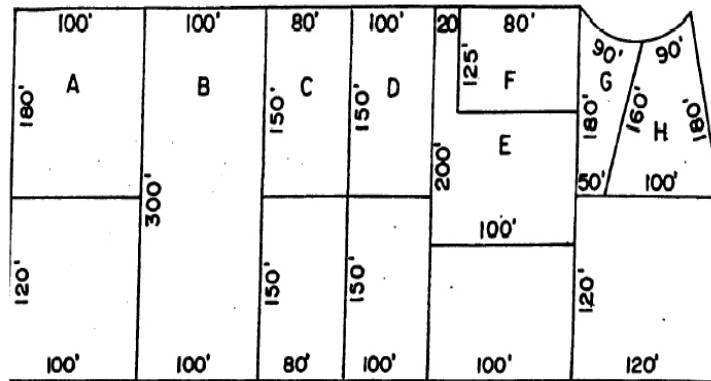
(c) *Special agreement.* The village board, through recommendation by the appropriate committee, would handle each case on an individual basis. A resolution would be passed stating the conditions of the agreement.

(Ord. of 4-21-1998, § 1(13.05.020))

Sec. 78.115. Assessment formula.

(a) The assessment shall be made on the adjusted front footage formula. In such formula, odd-shaped lots and cul-de-sac lots are adjusted to an average front footage equivalent to the frontage of a rectangularly shaped lot of the same depth. This method is declared and found to be a more equitable assessment method than the simple front footage method. The adjusted front footage method gives consideration to the depth and shape, as well as frontage, on the street improved. The minimum front footage assessment shall be 100 feet or the adjusted front footage, whichever is greater. The plat example in figure 1 illustrates how the method is used in practice.

FIGURE 1



Lot A, corner lot--Adjusted footage shall be based on the first side improved. If both sides are improved the adjusted front footage shall be based on the long side.

Lot B	100 feet by 150 feet	Adjusted front footage	100.00 feet
Lot C	80 feet by 150 feet	Adjusted front	100.00 feet

		footage	minimum
Lot D	100 feet by 150 feet	Adjusted front footage	100.00 feet
Lot E	<u>10,000 square feet</u> 150 feet	Adjusted front footage	66.67 feet 100 ft. minimum
Lot F	<u>10,000 square feet</u> 150 feet	Adjusted front footage	66.67 feet 100 ft. minimum
Lot G	<u>11,900 square feet</u> 150 feet	Adjusted front footage	79.00 feet 100 ft. minimum
Lot H*	<u>16,150 square feet</u> 150 feet	Adjusted front footage	108.00 feet

Note: Square footage amounts for lots G and H are estimates.

*Note that the adjusted front footage can be further modified under section 78.116(1).

(b) In the adjusted front footage formula in figure 1 the lot depth figure of 150 feet has been used in the calculations. However, in applying this formula to a specific block, the actual denominator used in the formula shall be the apparent, general lot depth of the block in which the lot is situated or 150 feet, whichever is less. Such apparent lot depth shall be determined by the public works and utility committee and included in the schedule of the proposed assessments required by Wis. Stats. § 66.60, subject to the usual control of the village board, set forth in the cited section of the statutes.

(c) Large lots (residential lots with area greater than 40,000 square feet and commercial and industrial lots) may be assessed based on lot area or other methods of assessments that are deemed to be fair and equitable by the public works and utility committee.

(d) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actual front footage means the actual length of a lot's property lines abutting a public improvement and measured as described in legal documents (deeds, certified survey maps, subdivision plats, or other public land survey records).

Adjusted front footage means the front footage of a lot after making allowances for lot shape and size in accordance with this special assessment policy. The adjusted front footage may be greater or less than the actual front footage.

Assessable front footage means the front footage upon which the assessment will be levied. The assessable front footage will usually be the same as the adjusted front footage. However, in cases such as those involving corner lots which were previously

assessed on one side, or where a lot may have received a partial assessment, the assessable front footage can differ from the adjusted front footage.

(Ord. of 4-21-1998, § 1(13.05.030))

Sec. 78.116. Applying the adjusted front footage formula.

Throughout this section, 150 feet will be used as the denominator for purposes of explaining the application of the formula.

- (1) *Odd-shaped lots.* For odd-shaped lots, such as found on cul-de-sacs or triangular intersections, etc., the adjusted front footage is computed by dividing the area of the lot, up to a maximum distance of 150 feet from the street where the improvement is to be installed, by 150. When the adjusted front footage formula is applied and results in an adjusted front footage which is greater than the actual front footage, then the assessable front footage shall be the greater of the adjusted front footage or the minimum lot frontage of 100 feet.
- (2) *Approximately rectangular lots.* For a lot which is approximately rectangular, the adjusted front footage is computed by averaging the front and back sides of the lot. If the lot is deeper than 150 feet, the width at the 150-foot depth is used for the back lot line. This method is limited to where the divergence between the front and rear lot lines is five feet or less.
- (3) *Rectangular lots.* For the normal rectangular lot, the adjusted front footage is the actual front footage of the lot, using the 150-foot denominator.
- (4) *Shallow lots.* For rectangular lots under 150 feet in depth, the adjusted front footage is determined by dividing the actual lot area by 150 feet.
- (5) *Neck lots.* For lots which have a small frontage on a street, with a narrow strip running

back 150 feet more or less, an adjusted front footage is determined by dividing the actual lot area by 150 feet.

- (6) *Corner lots.* The adjusted front footage for corner lots shall be based on the first side improved. If both sides are improved, the adjusted front footage shall be based on the long side. On lots where property lines meet with an arc, the front footage shall be computed as half the arc measurement at the property line. The adjusted front footage will further take into account the lot shape as described in this section. Where one side has been previously improved and assessed and the second side is improved, an assessment will be levied for the second side served if the lot could be divided along the second side to make another lot conforming to existing or potential zoning. The adjusted front footage for the second side served in this case will be the adjusted front footage on the second side less 150 feet or the minimum 100 feet, whichever is greater.
- (7) *Double frontage lots.* See lot B in figure 1. A double frontage lot assessment is an exception to the rule. Its assessment shall be for the first side served. The assessment shall be computed on the adjusted front footage method that conforms to the shape and size of the lot, except that if the lot is capable of division on a line roughly parallel to either of the abutting streets, into two or more lots upon which two or more principal buildings could be erected according to the regulations of the zoning district in which the lot is located, the assessment shall then be for both sides when served and at the adjusted front footage formula as conforms to the size and shape of the resulting "lots." Any variance that may be granted by the zoning board of appeals will be excluded from consideration in calculating lot division for purposes of assessment under this section.

- (8) *Triple frontage lots.* Triple frontage lots have characteristics of double frontage and corner lots. A triple frontage lot will be considered the same as a double frontage lot.
- (9) *Other cases.* Lots not meeting any of the specific criteria described in section 78.115 and this section will be handled on a case by case basis.

(Ord. of 4-21-1998, § 1(13.05.040))

Sec. 78.117. Determination of assessable front footage.

The assessable front footage is the frontage upon which the assessment will be calculated and shall be determined by taking the adjusted front footage, as determined in sections 78.115 and 78.116, less any allowances for previous assessments, or other unassessable front footage.

(Ord. of 4-21-1998, § 1(13.05.050))

Sec. 78.117.1. Alternative procedure/sewer and water assessments.

As a complete alternative to the methods of assessments for sanitary sewer and water main improvements provided in sections 78.115, 78.116 and 78.117, the following procedure may be used either exclusively or in combination with other methods of assessments allowed by law in making such assessments.

- (1) *Lump sum/REU assessment.* A lump sum or base assessment may be levied against each assessable parcel within the boundaries of the district to be assessed. In addition to the lump sum assessment, residential equivalency unit assessments (REU's), using average residential water consumption as the standard of measurement, may be applied to those commercial and industrial users of the system that are projected to use the system in excess of the daily average water usage of a single family residence. Such additional REU assessments may vary in proportion to the existing or projected use of the property.

- (2) *Assessments for costs of reserve capacity.* The reserve capacity cost of a sewer or water system benefitting future users may be fairly apportioned among property owners who could not otherwise be connected to the service without the interceptor or water main. REU's shall be calculated for each such property and payments made on the assessment will not be due until each such property is developed.
- (3) *Changes in REU assessment.* Where remodeling or additions to an existing structure would change the REU's assessed against a parcel of property, then and additional amount equal to the new REU's times the original assessed amount per REU must be paid in full before occupancy is permitted.

(Ord. of 2-21-2000, § 1)

Sec. 78.118. Determination of assessment cost for new street and curb and gutter construction.

(a) *Assessable costs.* One hundred percent of new street and curb and gutter construction will be assessed.

(b) *Assessment calculation.* The assessment for the initial installation of street, curb, gutter and pavement construction (see section 78.119 for repair, reconstruction, replacement or widening assessment methods) shall be computed by multiplying the assessable front footage, as provided in section 78.117, by the per-foot charges as calculated for the project.

(Ord. of 4-21-1998, § 1(13.05.060))

Sec. 78.119. Determination of assessment cost for street and curb and gutter reconstruction.

- (a) *Assessable costs.* Street reconstructions will be categorized as follows:
- (1) Reconstruction with drainage improvements that may include curb/gutter and sidewalk),
 - (2) Reconstruction without drainage improvements.

Street maintenance shall be categorized as either moderate or minimal maintenance.

When a street is reconstructed with drainage improvements, one-third of the costs will be assessed to each property owner benefiting from the improvements (i.e., both sides of the street will be assessed where applicable). The remaining one-third will be borne by the village. When a street is reconstructed without drainage improvements, one-fourth of the costs will be assessed to each property owner benefiting from the improvements (i.e., both sides of the street where applicable). The remaining one-half will be borne by the village.

(b) *Assessments for reconstruction and maintenance--When applied.* The costs of street reconstruction shall be assessed to benefiting property owners, as described in [subsection] (a) whenever a street is reconstructed with a permanent pavement, with or without drainage improvements, subject to the adjustments for design life as determined in [subsection] (e). Costs of street maintenance will not be assessed. In cases where there have been previous special assessments for street reconstruction or in subdivisions where improvements were installed at the cost of the developer, credits shall be reflected in project costs for crushed aggregate base course and/or asphalt materials that are recycled for use as base course. The amount of the credit shall be equal to the unit price for the equivalent purchased materials, less any processing costs to recycle the existing materials. The adjustment shall be applied to the total project costs.

(c) *[Direct and indirect costs.]* The direct and indirect costs of straight time village employee labor and village owned equipment used on street reconstruction projects will not be assessed. All costs of materials, whether reprocessed by the village or provided by an outside source, village overtime labor, and labor and equipment provided by outside sources, shall be included in special assessments, subject to the discretion of the village board.

(d) *Assessment calculation.* The assessment for street reconstruction shall be computed by multiplying the assessable front footage, as determined in section 78.117, by the per-foot charges as calculated for the project.

(e) *Adjustment for design life.* The assessment shall be further adjusted if the street to be reconstructed has not served its full design life. Such adjustment shall be made by multiplying the assessable costs per foot as provided in subsection (d) of this section by the ratio of the age of the improvement in years to the design life of the improvement in years, but in no case shall the ratio exceed one. For the purpose of adjusting the assessment formula for street reconstruction, the design life of a street shall be as follows:

- (1) The life of permanent asphalt or concrete surfacing with drainage improvements that include curb and gutter, shall be 20 years.

- (2) The life of permanent asphalt or concrete surfacing with drainage improvements that do not include curb and gutter, shall be 15 years.
- (3) The life of permanent asphalt or concrete surfacing without drainage improvements shall be ten years.
- (4) The life of moderate maintenance asphalt overlays shall be six years.
- (5) The life of minimum maintenance asphalt overlays shall be three years.
- (6) A permanent asphalt surface shall be a layer three inches thick or more, upon six or more inches of crushed aggregate base course. The maximum assessment shall be based upon eight inches of crushed aggregate and a three inches thickness of asphalt for a 30 foot wide pavement section.
- (7) A moderate maintenance surface is a layer of asphalt up to two inches thick placed upon additional base course up to six inches thick.
- (8) A minimal maintenance overlay is a layer of asphalt up to two inches thick, or seal coat, placed upon the existing pavement surface.

Example:

- (1) Permanent asphalt pavement, curb & gutter, gravel base: design life = 20 years.
- (2) Base charge per subsections (a, b, c) of this section = \$15.00.
- (3) Actual street age = 10 years.
- (4) Adjusted front footage = 100 feet.
- (5) Assessment calculation = base charge × actual age/design life × assessable front footage.
- (6) $\$15.00 \times 10 \text{ years} / 20 \text{ years} \times 100 \text{ feet} = \750.00

(Ord. of 4-21-1998, § 1(13.05.070); Ord. of 6-6-2001, § 1; Ord. of 10-1-2001, § 1)

Sec. 78.120. Drive approach construction.

One hundred percent of the drive approach costs will be assessed to the property owner on all new construction and street reconstruction.

(Ord. of 4-21-1998, § 1(13.05.080))

Sec. 78.121. Sidewalks; new construction and reconstruction.

(a) *General assessment procedure.* The amount to be levied against an abutting property shall be determined by dividing the total project cost by the total assessable front footage of properties abutting the improvement, and multiplying the resulting rate per foot by the assessable front footage of the individual parcels.

(b) *Establishment of costs.* Costs for new or replacement sidewalk construction to be assessed to the abutting properties shall be established by a resolution adopted by the village board.

(c) *Adjustment for design life.* When a sidewalk is reconstructed which has not served its full design life, and adjustment shall be made by multiplying the total assessable cost by the ratio of the actual age of the sidewalk in years to the design life in years, but in no case shall the ratio exceed one. The design life of a sidewalk shall be 20 years.

(Ord. of 4-21-1998, § 1(13.05.090))

Sec. 78.122. Determination of assessment cost for sanitary sewer, lift station, water main

construction and booster stations.

(a) *General method of determining cost for sanitary sewer and water main construction.* The amount to be levied against an abutting property shall be determined by multiplying the assessable front footage (as determined in section 78.117) of the individual parcel abutting the street or right-of-way to be improved or so improved by the assessable cost per foot, which is determined by dividing the total cost of the project for the blocks, block, or part thereof by the total number of feet of assessable front footage on both sides of the street. The total cost of the project may include, but shall not be

limited to, all construction and excavation costs, including rock removal and supplementary bedding, dewatering costs, and survey, inspection and engineering costs if applicable and so authorized.

(b) *Exceptions.*

- (1) *Cost based on eight-inch mains.* Assessments for sanitary sewer and water main construction shall be based upon the cost of installation of eight-inch mains, notwithstanding larger pipe actually installed, unless the customer's needs require a larger size main.
- (2) *Corner lots.* Assessable footage shall be determined according to section 78.116.
- (3) *Large lots.* Large lots shall be defined as residential lots over 40,000 square feet in area and industrial and commercial lots. For large lots the assessment for the improvements will be based on the area of the property benefitted, or by other methods of assessment deemed to be fair and equitable by the public works and utility committee.
- (4) *Unplatted area.* The public works and utility committee shall apply the general guidelines of the adjusted front footage formulas of sections 78.115 and 78.116, this section, or other methods of assessment that are deemed to be fair and equitable.

(c) *Lift stations.* Lift stations may be fully or partially assessed to the properties of the area which they serve. Lift stations may be assessed by the area method, the front footage method, the per lot or per dwelling unit method, or by any other methods deemed to be fair and equitable by the public works and utility committee. The assessments shall be levied in districts served by lift stations and are based on present capital costs as recommended by the public works and utility committee.

(d) *Booster stations.* Booster stations may be fully or partially assessed to the properties of the area which they serve. Booster stations may be assessed by the area method, the adjusted front footage method, the per lot or per dwelling unit method, or by any other methods deemed to be fair and equitable by the public works and utility committee. The assessments shall be levied in districts served by booster stations and are based on present and future capital, operational and maintenance costs as recommended by the public works and utility committee.

(Ord. of 4-21-1998, § 1(13.05.100))

Sec. 78.123. Access fee for sanitary sewer and water main improvements.

(a) When a property is benefitted by connecting private service laterals or where a development directly abutting the water or sewer mains extends additional mains with a direct connection to a sanitary sewer or water main, either existing or newly constructed, and where no assessments for the sanitary sewer and water main improvements have been previously levied against the property, the public works and utility committee shall cause an access fee to be charged to the benefitted property in lieu of the special assessment normally charged to abutting owners.

(b) For previously existing mains, the access fee shall be based on the current special assessment costs for similar construction, and for new mains the access fee shall be based on the actual project costs for new construction determined in accordance with section 78.121.

(c) The access fee shall be charged when recently annexed properties are to be connected to existing mains, or when properties not previously assessed by normal special assessment procedures are connected to mains.

(d) Payment for the access fee shall be a lump sum payment made in advance of the village's/utility's granting permission to connect to the mains owned by the village/utility. However, the village may by resolution approve an installment payment plan as normally used for special assessments in accordance with section 78.125.

(e) When an access fee is levied for an improvement not previously assessed by the village, and where the improvement was already 100 percent assessed to a project developer or where the improvement was constructed and financed solely by a developer under the direction of the village but without direct village cost, then the village may refund the access fee to the project developer in accordance with the following:

- (1) A "project developer" shall refer to a person, persons or business organization which
financed at least 50 percent or more of the total project cost.
- (2) A connection fee may be refunded to a project developer who qualifies as stated in this
subsection (e) providing the connection fee is collected by the village within ten years
from the year in which the improvement was constructed. After ten years has elapsed,
any claims for refunds shall be invalid.

- (3) A request for refund of an access fee shall be made in writing by the original project developer who was either assessed for the project or solely financed the project.
- (4) No person other than the original project developer shall be eligible to claim or receive a refund. The village, in its sole discretion, shall determine whether a refund shall be made after examining evidence and testimony. The village may request additional information from the developer other than that specified in this subsection (e). A finding of incomplete or unsubstantiated evidence may be grounds for denial of the claim for refund.
- (5) To qualify for an access fee refund, a project developer must be able to substantiate his claim by either:
- a. Producing a record of the assessment originally levied by the village indicating the original improvement was fully assessed by the village to the developer;
 - b. Submitting a sworn affidavit stating the developer paid for improvements serving properties other than the developer's own for which the developer received no previous reimbursement. The affidavit should be filed immediately after completion of the improvement, and refiled or amended at the time of the claim. Incorrect claims or untruthful statements shall subject the affiant to penalties of law.
- (6) The amount of the refund shall be calculated according to subsection (5)b of this section, less a fee of ten percent of the total to be paid to the village for administration expenses.
- (7) The payment of the refund may be in a lump sum or in installments, as the village may direct at the time of the claim.

(Ord. of 4-21-1998, § 1(13.05.110))

Sec. 78.124. Service laterals required.

(a) Prior to the improvement of the village street by the installation of curb, gutter, pavement or other permanent surfacing, utility laterals and service pipes shall be laid from the mains or utility tunnels to the abutting property. Where the work is done by village forces or by public contract let by the village, the cost of such installation shall be borne 100 percent by the property served. Extended time for payment, if any, shall be the same as for the street improvement. The village shall follow the procedures of Wis. Stats. § 66.60 as to notice, plans, estimates and levies for special assessment for the work.

(b) Laterals and service pipes for non-village-owned utilities may be required to be installed prior to the street improvement. The installation shall be by resolution of the village board for each street on a project-by-project basis.

(Ord. of 4-21-1998, § 1(13.05.120))

Sec. 78.125. Assessment paid by installments.

(a) Special assessments for the improvements provided for in this article may be paid over a period set forth in the preliminary and final special assessment resolutions. The number of annual installments shall be five when the average principal amount of special assessments on a project is \$1,000.00 or less. The village board may, but is not required, to extend the number of annual installments to more than five, but not greater than ten annual installments when the average principal amount of special assessments on a project is \$1,001.00 or more.

(b) Special assessments for the improvements provided for in this article may be paid over a period in excess of ten years only in those instances where the village board finds it to be in the public interest to construct a project and impose special assessments for the improvement upon real estate whose present or foreseeable use in the immediate future is not directly related to or dependent upon the improvements.

(Ord. of 4-21-1998, § 1(13.05.130); Ord. of 5-21-2001(2), § 1)

Sec. 78.126. Assessment prior to annexation.

(a) As a condition of annexation, and prior to action by the village board on any proposed annexation ordinance, a tender must be made to the village for unremunerated improvements made by the village from which benefits have accrued to the property petitioned or would have been received by such property but for the fact that such land was outside of the village when the improvements were made.

(b) Such tender must be made in cash, agreed to on an installment basis in accordance with village policies in effect at the time of such request for annexation, or, at the village's prerogative, an agreement may be entered into providing for payment.

(c) The benefits which must be paid are those which could have been assessed on a special assessment basis, whether under the police power or under the special benefit procedures, had the area to be considered for annexation been in the village at the time the improvements were made, and include but are not limited to new street construction, curb and gutter, sanitary sewer, water main, and any other improvements.

(d) Should the annexation ordinance fail, then any tender shall be returned to the petitioner unless the improvements are already benefitting the property, in which case the tender shall be retained and enforced by the village.

(Ord. of 4-21-1998, § 1(13.05.140))