

**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN**  
**5500 SCHOFIELD AVENUE, WESTON, WI 54476**  
**REQUEST FOR CONSIDERATION**

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<b>Public Mtg/Date:</b>	<b>Village Board of Trustees – 1/21/2019</b>
<b>Description:</b>	<b>Ordinance No. 19-002 An Ordinance Amending Section 78 Article III. Special Assessments</b>
<b>From:</b>	<b>Michael Wodalski, Deputy Director of Public Works Keith Donner, Director of Public Works/Acting Administrator</b>
<b>Question:</b>	<b>Should the Village Board approve the attached changes to the Special Assessment Ordinance?</b>

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**Background**

The special assessment ordinance has been discussed at the 12/3/18 Finance Committee Meeting, the 12/10/18 and 1/14/19 Public Works Committee Meetings and the 12/17/18 Village Board Meeting. After the Village Board Meeting, the recommendation was to modify the existing special assessment ordinance such that streets would no longer be assessed in the case of reconstruction and only new infrastructure would be assessed on projects (i.e. installation of curb and gutter where there previously was not curb and gutter).

A result of the Public Works Committee Meeting on 1/14/19 was to also eliminate section 78.121 which references costs related to sidewalk construction. This section is somewhat redundant either way as Section 70.110 specifies the party responsible for the expense and costs of sidewalk construction, repair or replacement which is the Village for a Village initiated project and a developer for a developer related project. Also, it specifies that if sidewalk damage is caused as a direct modification of the abutting property owner they are then responsible for the repair.

Attached is the revised ordinance that reflects these changes.

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<b>Attached Docs:</b>	<b>- Revised Special Assessment Ordinance - Request for Consideration from 12/17/18 to the Village Board which further explained the background of special assessments.</b>
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<b>Committee Action:</b>	<b>- Finance Committee on 12/3/18 recommended to proceed with the practices provided for in the current ordinance without any changes. - Public Works on 12/10/18 recommended modifying the current ordinance to only assess new improvements, such as curb and gutter. - Village Board on 12/17/18 endorsed the recommendation from Public Works.</b>
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- Public Works on 1/14/19 recommended further modifying the ordinance to eliminate references to sidewalk construction.

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**Fiscal Impact:** Varies by project.

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**Recommendation:** Staff is seeking concurrence from the Village Board on the revised ordinance language.

**Recommended Language for Official Action**

**I Recommend to adopt the revised special assessment ordinance language as presented.**

**Or, Recommend not adopting the revised special assessment ordinance language as presented.**

**Or, Recommend to adopt the revised special assessment ordinance language as presented with the following modifications...**

**Or, Something else**

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Additional action:



## VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

### ORDINANCE NO. 19-002

#### AN ORDINANCE AMENDING SECTION 78 ARTICLE III. SPECIAL ASSESSMENTS

The Village Board of the Village of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: The following subsections of Chapter 78, Sec. 78.113 through 78.126 are hereby amended and added to read as follows:

#### 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 therefore upon various classes of real estate, in a fair and equitable manner, through the application of a variety of formulas. All such levies shall be grounded in the exercise of the police powers of the village.

(Ord. of 4-21-1998, Ord. of 3-22-2012, § 1(13.05.010)) [Amended via Ord. No 15-027, 11/18/2015]

##### Sec. 78.114. Special assessment options.

- (a) *Statutory procedures*. Pursuant to Wis. Stat. § [66.0701](#), the village adopts the procedures for levying special assessments as contained in Wis. Stat. § [66.0703](#), with the exception that the village may at its discretion use the following procedures in lieu of the procedures described in Wis. Stats. §§ [66.0703\(8\)\(c\)](#), [\(8\)\(d\)](#) 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. [Chapter 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.

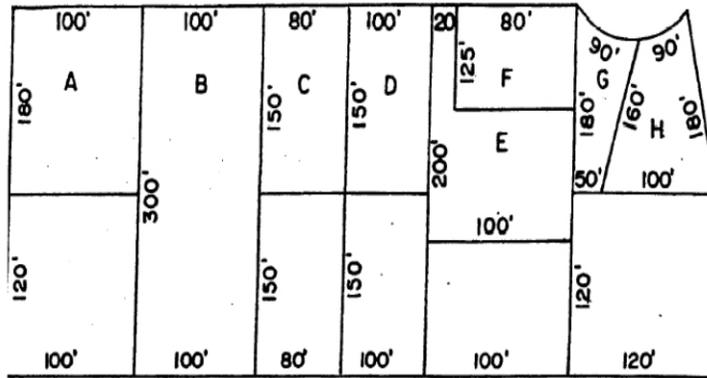
- (3) When the final resolution is published, all awards, compensations and assessments arising therefrom are deemed legally authorized and made, subject to the right of appeal under Wis. Stat. § [66.0703\(12\)](#).
- (b) ***Developer financing.*** Where the municipality is unwilling or unable to make 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, Ord. of 3-22-2012, § 1(13.05.020)) [Amended via Ord. No 15-027, 11/18/2015]

**Sec. 78.115. Assessment formula.**

- (a) The assessment ~~shall~~ **may** 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 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 footage	80.00 feet
Lot D	100 feet by 150 feet	Adjusted front footage	100.00 feet
Lot E	10,000 square feet 150 feet	Adjusted front footage	66.67 feet
Lot F	10,000 square feet 150 feet	Adjusted front footage	66.67 feet
Lot G	11,900 square feet 150 feet	Adjusted front footage	79.00 feet
Lot H*	16,150 square feet 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 Sec. 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. Stat. § [66.0703](#), 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, Ord. of 3-22-2012, § 1(13.05.030)) [Amended via Ord. No 15-027, 11/18/2015]

#### **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 adjusted front footage.
- (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.
- (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 Sec. 78.115 and this section will be handled on a case by case basis.

(Ord. of 4-21-1998, Ord. of 3-22-2012, § 1(13.05.040)) [Amended via Ord. No 15-027, 11/18/2015]

**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 Secs 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)) [Amended via Ord. No 15-027, 11/18/2015]

**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 Secs. 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 an 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) [Amended via Ord. No 15-027, 11/18/2015]

**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 Sec. 78.119 for repair, reconstruction, replacement or widening assessment methods~~) shall be computed by multiplying the assessable front footage, as provided in Sec. 78.117, by the per-foot charges as calculated for the project.

(Ord. of 4-21-1998, § 1(13.05.060)) [Amended via Ord. No 15-027, 11/18/2015]

**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 Sec. 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 twelve inches of crushed aggregate and a three inch 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 × 10 years/20 years × 100 feet = \$750.00~~

~~(Ord. of 4-21-1998, § 1(13.05.070); Ord. of 6-6-2001, § 1; Ord. of 10-1-2001, § 1; Ord. of 3-22-2012) [Amended via Ord. No 15-027, 11/18/2015]~~

**Sec. 78.120119. 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 ~~projects based on an actual square foot measurement.~~

~~(Ord. of 4-21-1998, § 1(13.05.080)) [Amended via Ord. No 15-027, 11/18/2015]~~

**~~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)) [Amended via Ord. No 15-027, 11/18/2015]~~

**Sec. 78.1202. 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 Sec. 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 **Property and Infrastructure 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 Secs. 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 Property and Infrastructure 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 **Property and Infrastructure Public Works and Utility** Committee.

(Ord. of 4-21-1998, § 1(13.05.100)) [Amended via Ord. No 15-027, 11/18/2015]

**Sec. 78.1213. 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 **Property and**

~~Infrastructure~~ **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 Sec. 78.1204.
- (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 Sec. 78.1235.
- (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)) [Amended via Ord. No 15-027, 11/18/2015]

**Sec. 78.1224. 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 **on private property** 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. Stat. § [66.0703](#) 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); Ord. of 3-22-2012) [Amended via Ord. No 15-027, 11/18/2015]

**Sec. 78.1235. 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, 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) [Amended via Ord. No 15-027, 11/18/2015]

**Sec. 78.1246. 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)) [Amended via Ord. No 15-027, 11/18/2015]

SECTION 2: The amendments effectuated by this Ordinance shall apply within the municipal limits of the Village.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the

remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 21 day of January, 2019

WESTON VILLAGE BOARD

By: \_\_\_\_\_  
Barbara Ermeling, its President

Attest:

\_\_\_\_\_  
Sherry Weinkauf, its Clerk

APPROVED: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

# RFC From 12/17/18 Village Board

VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN  
5500 SCHOFIELD AVENUE, WESTON, WI 54476  
REQUEST FOR CONSIDERATION

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<b>Public Mtg/Date:</b>	<b>Village Board – 12/17/2018</b>
<b>Description:</b>	<b>Discussion Regarding Special Assessments for Future Public Works Projects</b>
<b>From:</b>	<b>Michael Wodalski, Deputy Director of Public Works Keith Donner, Director of Public Works/Acting Administrator</b>
<b>Question:</b>	<b>Should the Village modify its current Special Assessment ordinance for future Public Works projects?</b>

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## Background

It is going on 7 years since the Village last reconstructed a neighborhood street and levied special assessments. There has been recent discussion about the Village's need to adopt a capital improvement plan (CIP) for the next 5 to 10 years. Proposed projects in the CIP will include recommendations to reconstruct neighborhood streets in the near future. Since it affects planning for these projects, staff wants to confirm what the Board of Trustees' position is regarding the special assessment ordinance and policy; that is, whether "stay the course" with the existing ordinance and policies or whether to consider modifications.

This item was discussed at the 12/3/19 Finance Committee Meeting as well as the 12/10/19 Public Works Committee Meeting.

The Finance Committee's discussion centered around the principle of special assessing projects and there was little focus on the cost to the resident. Concerns were stated about previously assessed neighborhoods objecting to a change in policy and requesting a refund (as happened regarding sidewalk at one time). The recommendation from Finance was for the Village to continue with the current policy without any modifications.

The discussion at Public Works centered more around affordability of assessments as well as the principle that special assessments are more appropriate for new improvements versus reconstruction of existing infrastructure. The committee seemed to agree that we need to be conscious about putting too much of a financial burden on residents with assessments. The committee recommended that the Village modify the current special assessment policy by eliminating assessments for street reconstruction and only assessing new improvements such as driveway approaches and curb and gutter.

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For a historical overview, the Village of Weston has a Special Assessment Ordinance that has been in place since 1998. The ordinance is attached for reference. Below are a few of the highlights from the ordinance.

- For new streets, the special assessment ordinance states that 100% of the cost is assessed, this would be if the Village is initiating the project which hasn't been done recently. If a developer initiates a project, through the Village's subdivision ordinance, the developer is responsible for 100% of the public improvements. This has been the case for new subdivision developments, most recently Misty Pines.
- New utility service areas are similar where the developer/customer is responsible for the cost of the extension, the one caveat is that the Village has contributed costs due to oversizing of utility mains if it is necessary for overall Village capacity and not just the new service area.
- For a typical street reconstruction project, street reconstruction costs have been assessed to the abutting property owners. The costs have been broken down as follows:
  - o The street is assessed at 1/3 to each adjacent property owner for 2/3 total and the Village pays for the middle 1/3 of the street. The street section that is assessed is based on a typical residential street section of 3 inches of asphalt and 12 inches of base course for a 30-foot-wide street
  - o Curb and gutter is assessed at 100% to the adjacent property owner
    - Street and curb and gutter costs are allocated via an adjusted front foot method determination. Thus, costs are divided by the total project distance and a per linear foot cost is determined. Then costs are allocated based on how much street frontage a parcel has.
  - o Driveway approaches are assessed at 100% to the property owner.
    - Driveway approach costs are determined on a square foot rate and assessed based on the measured area of each parcel's approach.
  - o Sidewalk was assessed initially, but has not been assessed on projects since the mid-2000's. (Our complete streets ordinance would lead us to construct sidewalk on reconstruction projects as a matter of equity with our requirements of developers).

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- Sanitary sewer laterals (new or replacement) have been assessed at 100% from the sewer main to the property line. (The revised Sanitary Sewer Utility Ordinance in 2017 changed the ownership of the sewer lateral in the ROW from the customer to the Village, so this item no longer is assessable for replacement unless the customer increases the size)
  - Lateral costs were based on actual distance between the main and the property line.

For a historical cost perspective, below are the assessment rates for 5 projects from 2001 to 2012, which is the last year the Village had a neighborhood street reconstruction project.

Project	Year	Street \$ (LF)	Curb and Gutter \$ (LF)	Sidewalk \$ (LF)	Total LF Cost
Normandy	2001	19.99	10.14	11.59	\$41.72
Sternberg	2003	22.71	9.20	11.08	\$42.99
Mt View East	2007	65.54	18.76	0.00	\$84.30
Mt View West	2009	32.15	12.41	0.00	\$44.56
Neupert	2012	40.49	15.24	0.00	\$55.73

A typical lot in the Village of Weston has about 120 feet of frontage. Thus, over the course of these projects, assessments to the typical lot ranged from \$5,006.40 on the low end to \$10,116.00 on the high end. This comparison excludes the cost of the driveway approach which averaged around \$600 per project.

Assessments can be repaid in installments. Per the ordinance, the number of installments shall be 5 when the average principal payment is under \$1,000 annually. If the payment would be larger than \$1,000 annually, a 10-year payback period is used. (Wisconsin special assessment statutes require the repayment terms to be stated at the special assessment hearing). As an example, the average assessment for Neupert Ave was \$6,823.17 which led to a 10-yr payback, excluding interest, of \$682.32 annually.

If, only the curb & gutter improvements on Neupert Ave would have been special assessed, the average total assessment would have been around \$1,828.80, (approximately 27% of the actual total that was assessed). This would have been eligible then for a 5-yr payback, which, excluding interest would, be around \$365.76 annually for 5 years. This equates to \$316.56/yr less over the 5 year span.

The costs above show how Special Assessments impact the residents, the table below shows how Special Assessments impact the Village by reducing the total costs of projects that the Village pays for.

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<b>Project</b>	<b>Year</b>	<b>Total Cost</b>	<b>Assessed Costs</b>	<b>Village Costs</b>
Normandy	2001	\$533,790.96	\$271,984.26	\$261,806.70
Sternberg	2003	\$784,521.00	\$241,761.30	\$542,759.70
Mt View East	2007	\$1,459,619.00	\$571,934.00	\$887,685.00
Mt View West	2009	\$1,525,134.88	\$422,931.15	\$1,102,203.73
Neupert	2012	\$1,617,699.06	\$423,412.00	\$1,194,287.06
<b>Total of all 5</b>		<b>\$5,920,764.90</b>	<b>\$1,932,022.71</b>	<b>\$3,988,742.19</b>

By special assessing these projects, the Village of Weston saved \$1,932,022.71 due to assessments billed to property owners over that 11-year span.

Looking at Neupert Ave again, if only curb and gutter would have been assessed, the total costs assessed to property owners would have been \$90,829.47 and the Village costs would have been \$1,526,869.59.

In addition to the Village's historic data, staff checked with neighboring communities to see what their current policy is regarding special assessments as outlined in the table below.

<b>Community</b>	<b>Special Assessment Policy</b>
Mosinee	Only assesses for curb and gutter, driveway approaches and new sidewalk. Does not assess for street costs.
Rib Mountain	Historically has not special assessed, recently did assess the Rib Mountain Dr project
Rothschild	Only assesses extra area of driveway approaches over what was there. (i.e. if existing driveway width was 20 ft and new one is 25 ft property is assessed for the 5 ft difference)
Schofield	Does not assess for streets
Wausau	Assesses similar to current Village Policy

These communities range from no assessments to fully assessing, similar to the Village of Weston, with some other communities in the middle. This shows that there is not one uniform method used in our area. In the end what improvements a municipality special assesses to property owners and how much is at the discretion of the governing body.

Summarizing, for street reconstruction projects there are 4 elements that make up the assessment categories:

- 1) The Street itself (asphalt and base material)
- 2) Curb and Gutter Installation/Replacement
- 3) Driveway Approaches
- 4) Sidewalk

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Options staff could compare for street reconstruction are different ratios for special assessment of improvements; e.g. 25% of street costs to property owners on each side and 50% to Village; pavement only at current or revised ratios, etc.

There are other aspects of the special assessment ordinance which may also be brought forward in the future, such as putting a ceiling on the costs for sewer and water service to a lot or equivalent lot, etc.

The principle of equity to all affected property owners on a project is stated in Wisconsin Statutes. Any modifications would need to meet that principle.

The direction staff received from the Finance and Public Works Committees was somewhat contradictory. Staff believes there needs to be a balance between what improvements and how much of the cost of those improvements are paid through special assessments to property owners vs. paid by the Village. This was also the sentiment of the Public Works Committee.

Staff seeks direction from the Board of Trustees as to what changes, if any, they wish to make in the special assessment ordinance. This will need to be known by all staff, elected officials, and committee representatives relative to preparation of special assessment reports and public input received at future special assessment public hearings. With some projects proposed in the next 2 years, this is something that should be addressed sooner, rather than later. This will allow staff to provide consistent information to residents in advance of any upcoming work.

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<b>Attached Docs:</b>	<b>Special Assessment Ordinance</b>
<b>Committee Action:</b>	<b>Finance Committee on 12/3/18 recommended to proceed with the practices provided for in the current ordinance without any changes. Public Works on 12/10/18 recommended modifying the current ordinance to only assess new improvements, such as curb and gutter.</b>
<b>Fiscal Impact:</b>	<b>Unknown until it is determined how the Village will move forward with the special assessment process</b>
<b>Recommendation:</b>	<b>Staff does not have a recommendation at this time. Staff is seeking further direction from the Board of Trustees.</b>

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