

Chapter 206

PUBLIC IMPROVEMENTS

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[HISTORY: Adopted by the Village Board of the Village of Fall Creek 5-13-2004. (This ordinance also repealed former Ch. 104, Assessments, Special, adopted 7-12-2001 and as originally adopted 10-4-1960 as Ch. 6, Sec. 6.08 of the 1960 Code as amended.) Amendments noted where applicable.]

GENERAL REFERENCES

Sewers – See Ch. 214. Water – See Ch. 254. Streets and sidewalks – See Ch. 227  
Subdivision of land – See Ch. 267. Engineering Standards

§ 206-1. Public improvement requests.

- A. Property owners desiring public improvements, including, but not limited to, public street, sidewalk, curb and gutter, driveway approaches, storm sewers, water mains, sanitary sewers, lift stations, force mains, and other municipal improvements shall file with the Village Clerk-Treasurer a petition requesting the work. Sample petitions are available at the Village Clerk-Treasurer’s office. Petitions must be filed before September 1 to be considered in the budget for the following year. The amount of construction is limited within the budget of the Village, and work may be delayed until funds are available.
- B. In its discretion, the Village Board may approve petitions that are signed by, at the minimum, those persons benefited who own more than 50% of the frontage abutting the proposed improvement. However, the Village Board has authority to reject any petition.

§ 206-2. Village Board designation of public improvement projects.

As a complete alternative to the petition process under §206-1, the Village Board may decide to engage in public improvement projects without request of property owners. In such an event the Village Board shall attribute all or a portion of the costs of each such project against benefited property owners in a manner consistent with this chapter.

§ 206-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CORNER LOT – A parcel of land with adjacent sides fronting on public streets. [Added 4-8-2019]

LOT – A parcel of land adequate in size to allow construction of a building in accordance with Village requirements.

**NEW CONSTRUCTION** – The first-time construction of any streets, sidewalks, curb/gutter, storm sewer, water, or sewer service whether or not it is part of a newly platted subdivision or certified survey map.

**RECONSTRUCTION** – The Village ordered replacement of any streets, sidewalks, curb/gutter, storm sewer, water, or sewer service. **[Amended 10-13-2005]**

**SEWER LATERAL** – A sanitary sewer connecting a single property or building with the sewer main.

**SEWER MAIN** – A sanitary sewer eight inches in diameter or larger installed within a public easement or right-of-way for the purpose of serving adjacent properties.

**WATER LATERAL** – A waterline connecting a single property or building to a water main.

**WATER MAIN** – A water main six inches in diameter or larger installed within a public easement or right-of-way.

**§ 206-4. Special assessments and other means of cost recapture.**

- A. For those improvements which will be partially or fully paid for by the property owners, special assessment charges may be made at the Village Board's discretion based on the cost of improvement, the Village's ordinance for Village participation in the improvement cost, and the benefit accruing to property. Special assessments will be levied under police powers according to W.S.A. ss. §66.073, et. seq.
- B. Assessments may be based on an area proration, a per lot proration, or an assessable front foot proration. The Village Board will determine which method is used for a project.
  - (1) If the area proration is chosen, the total assessable cost will be divided by the assessable area. The area assessed may be in square feet, acres, or other area approved by the Village Board.
  - (2) If the per lot proration is chosen, the total assessable cost will be divided by the number of assessable lots.
  - (3) If the assessable front foot proration method is used, the total assessable cost will be divided by the number of assessable front feet.
- C. Corner lots shall be assessed the standard amount for the longer side and 50% of the standard amount for the shorter side. **[Added 4-8-2019]**
- D. In lieu of exercising its special assessment powers, the Village Board may use such other means to collect payments for public improvements as will cover the costs of a project attributable to benefited property owners including, but not limited to, developer's agreements.

**§ 206-5. New Construction.**

- A. See also Subdivision of Land, Chapter 267-24.C. & D.
- B. Streets. The Village improves streets where it becomes necessary to facilitate movement of traffic, or when parcels of land are developed and require public street access. No street will be improved unless adequate right-of-way has been dedicated for public use.
- (1) One hundred percent of the cost for constructing new public streets will be assessed to or paid by the adjoining properties.
  - (2) The cost of constructing new streets may include, but is not limited to, the following items:

Grading, including excavation and disposal of unneeded material, adding fill material, geotextile fabric, granular sub-base, crushed aggregate base course, hot mix asphalt or portland cement concrete surface course, curb and gutter, restoration of disturbed areas, surveying and engineering costs to design and construct the project, and Village legal and administrative costs to construct and assess the project.
  - (3) The maximum amount assessed or paid by adjacent property owners will be those costs incurred within the street right-of-way, including street construction up to a street width of 40 feet back-to-back of curb or less. The streets which are wider than 40 feet back-to-back of curb will have the pavement width in excess of 40 feet back-to-back of curb paid by the Village of Fall Creek. Only those costs directly associated with additional pavement width, including: excavation and fill, geotextile fabric, granular subbase and crushed aggregate base course and hot mix asphalt surface, will be paid by the Village.
  - (4) Where curb and gutter is installed, regardless of street width, the adjoining property owners will be assessed 100% of the cost for curb and gutter.
  - (5) Sidewalks and trails shall be installed as requested by property owners or as ordered by the Village Board. Sidewalks shall be constructed in accordance with Chapter 227, Streets and Sidewalks, of this code. The total cost of all work involved in the construction of sidewalks will be assessed one hundred percent to the adjacent property owners.
  - (6) Driveways and Driveway Approaches. Property owners are responsible for 100% of the costs of construction and maintenance of driveways within the public right-of-way area. Driveway openings and approaches, including the sidewalk section of the driveway, shall be installed for existing homes and new homes when curb and gutter is installed. New driveway entrances for new or existing homes must be concrete in the area between the curb and the public sidewalk and conform to the grade of the curb. All driveway entrance and approaches are subject to the approval of the Director of Public Works.
  - (7) Abutting property owners shall pay for alley construction in the same manner as streets.

### C. Storm sewers.

- (1) The rate of the assessment of storm sewers and appurtenances and all necessary work required to construct a storm sewer system shall be determined and one hundred percent of said total cost up to and including 18 inch sewers shall be assessed to the benefiting properties. Generally, any excess diameter capacity shall be assessed or deferred assessed against benefiting properties within the storm sewer drainage area.
- (2) The Village of Fall Creek 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 and private properties will grade their property to drain to the Village's storm water facility.

### D. Sanitary Sewers Mains

- (1) Extensions of sanitary sewer mains, force mains, syphon mains and appurtenances and all necessary work required to construct a sanitary sewer system shall be installed when it is determined by the Village Board to be in the best interest of the public or necessary for public health and safety. Videos of mains shall be performed after construction to ensure quality of construction. **[Amended 7-12-2010]**
- (2) Benefiting properties shall be assessed for one hundred percent of the total cost of an eight-inch sanitary sewer main including appurtenances and videoing. **[Amended 7-12-2010]**
- (3) Sanitary sewage lift stations. The Village shall pay one hundred percent of the cost of a lift station and other related appurtenant items. These costs, including financing, shall be recovered by charging new property owners a sewer hookup fee. Amount of fee shall vary based on the number of hookups expected within ten years and shall be established at the time of the Developer's Agreement. Fee must be paid at the time application is made for a building permit.
- (4) Developments not needing a lift station. For new construction in a development that does not need a sanitary sewage lift station, the property owner will be charged a \$500 hookup fee per lot to help cover the costs of the wastewater treatment facilities. Fee must be paid at the time application is made for a building permit. **[Amended 7-9-2012]**
- (5) Village Wastewater Treatment Facilities. The Sewer Utility shall pay for the cost of wastewater treatment facilities and appurtenant items.

### E. Water Mains

- (1) Extensions of water mains and appurtenances and all necessary work required to construct a water system shall be installed when it is determined by the Village Board to be in the best interest of the public or necessary for public health and safety.

- (2) Benefiting properties shall be assessed for one hundred percent of the total cost of an eight-inch water main including appurtenances.
- (3) Booster Pump Stations. Benefiting properties shall be assessed for one hundred percent of the total cost of a booster pump station.
- (4) Well Pump Stations, Wells, and Water Towers. The Village Water Utility shall pay for the total cost of installing well pump stations, wells, water towers, and other appurtenant items.

F. Sewer and Water laterals.

- (1) Laterals Required. One sewer and one water lateral shall be extended for each lot or building to be served.
- (2) Charges for laterals. The entire cost for installing sewer and water laterals from the main to the private property shall be paid by the property owner.
- (3) Laterals are not required on the following unimproved properties:
  - (a) A vacant lot or portion of a lot that is too small for a building lot under the provisions of Chapter 118, Building Construction and Fire Prevention and Chapter 268, Zoning, of this code, and including where the present dwelling is located on a portion of two or more lots so as to preclude the possibility of another dwelling being placed thereon.
  - (b) On properties which, in the judgment of the Village Board, will not likely develop in the foreseeable future or within the life of the current street surface, or where the pattern of development cannot reasonably be determined.

G. Street lights.

- (1) Any property owner, resident, or group of property owners may petition for streetlights in their neighborhood. The Village Board may order streetlights installed by approving petitions or may on its own motion install a streetlight. There is no charge to adjacent property owners for standard street light installation.
- (2) Decorative street lights: Electric Utility approved and maintained decorative street lights may be installed at Village Board approval. Village shall credit the developer for the cost of standard street lights and the developer shall be responsible for any additional cost.

H. Existing Properties Affected by New Development. When a new development is constructed abutting an existing property or when utility services are extended past an existing property, the costs that would be incurred for the existing property shall be assessed to the owner of the existing property per the above ordinances.

**§ 206-6. Reconstruction and Maintenance**

- A. Streets. The Village improves existing streets where it becomes necessary to facilitate movement of traffic, or where it becomes necessary to reconstruct streets due to deteriorating condition. No street will be improved unless adequate right-of-way has been dedicated for public use.
- (1) Fifty percent of the cost for reconstructing public streets will be assessed to or paid by the benefitting properties. **[Amended 11-11-2004, 4-8-2019, 10-12-2020]**
  - (2) The cost of reconstructing existing streets may include, but is not limited to, the following items:

Grading, including excavation and disposal of unneeded material, adding fill material, geotextile fabric, granular sub-base, crushed aggregate base course, hot mix asphalt or portland cement concrete surface course, restoration of disturbed areas, surveying and engineering costs to design and construct the project, and Village legal and administrative costs to construct and assess the project.
  - (3) Sidewalks, Driveway Approaches, Curb & Gutter. Sidewalks, trails, and driveway approaches shall be reconstructed in accordance with Chapter 227, streets and sidewalks, of this code. Fifty percent of the cost for reconstructing sidewalks, driveway approaches, curb & gutter will be assessed to or paid by the benefitting properties. **[Amended 11-11-2004, 4-8-2019, 10-12-2020]**
  - (4) Corner Lots: A credit shall be given to property owners with corner lots in the amount of 50% of the lineal footage of the short side of the lot. **[Added 4-8-2019]**
  - (5) When a seal coat is applied or crack sealing is done to a paved street for maintenance purposes, the Village will pay the entire cost of seal coating and crack sealing.
  - (6) Benefitting property owners shall pay for alley construction in the same manner as streets. **[Amended 10-12-2020]**
- B. Storm Water Sewers. Replacement and Maintenance. The Village shall maintain and replace storm water sewer mains and appurtenances and all necessary work required to construct a storm water sewer system or sections where necessary. The Village shall pay 100% of these costs. A storm water utility shall be established to finance replacement and maintenance costs.
- C. Sanitary Sewers. Replacement and Maintenance. The Village shall maintain and replace sewer mains and appurtenances and all necessary work required to construct a sanitary sewer system or sections where necessary. Videoring of mains shall be performed after construction to ensure quality of construction. The Utility shall pay 100% of these costs. **[Amended 11-11-2004, 7-12-2010]**
- D. Water Mains. Replacement and Maintenance. The Village shall maintain and replace water mains and appurtenances and all necessary work required to construct a water system or sections where necessary. The Utility shall pay 100% of these costs. **[Amended 11-11-2004]**

- E. Water laterals. Replacement and Maintenance. The service pipe from the main to and through the curb stop will be maintained and kept in repair and, when worn out, replaced at the expense of the Utility. The property owner shall maintain the service pipe from the curb stop to the point of use. **[Amended 5-10-2007]**
- F. Trees. The Village will remove trees within the street right-of-way as required for street improvement and safety. Trees within the street right-of-way, which are dead or diseased, will also be removed without charge to the property owner. All trees located within and/or parts of trees encroaching over public right-of-ways are deemed to be owned by the Village regardless of who plants them. These trees are subject to maintenance and removal at the Village’s discretion.
- G. State or County Roads. When reconstructing State or County roads it is recognized that the State of Wisconsin or County of Eau Claire will be paying a portion of the project costs. The above ordinances shall apply to the share of costs not paid by the State or County.
- H. Allocation of Any Grant Funds. The Village Board, at its discretion, shall seek financial assistance in the form of state or federal grants for reconstruction projects. Unless otherwise specified by the grant, it shall be viewed that any grant funds received shall be used to offset the Village’s share of reconstruction costs as outlined in the above section, thereby reducing the burden of these costs on the tax levy. Any remaining grant funds shall be credited to the abutting property owners proportionately.

**§ 206-7. Reservation of power to deviate from cost-sharing standards of Chapter 206.**

On a case-by-case and project-by-project basis, when it deems such action to be appropriate, the Village Board may, in its discretion, deviate from the cost-sharing standards set forth in this chapter and attribute a lesser or greater proration of the identified cost of a public improvement project to benefited properties. In an effort to make the burden on benefited property owners comparable to past projects, the Board will consider the fluctuation of construction costs in relation to inflation when determining the cost-share ratio. **[Amended 9-9-2019]**

**§ 206-8. Billing procedures and payments. [Amended 9-8-2005]**

- A. When special assessments are assessed to a property, a Final Assessment Statement and Installment Assessment Notice will be sent to the property owner following adoption of the Final Resolution Authorizing the Public Improvements and Levying the Special Assessments Against Benefited Property.
  - (1) If the Final Assessment Statement amount is \$500 or less, the owner must pay in full within 60 days of the date of the final resolution or by November 1, whichever is sooner.
  - (2) If the Final Assessment Statement amount is over \$500, the owner has the following options:
    - (a) Assessments shall be paid in full within 60 days of the date of the final resolution or by November 1, whichever is sooner.

- (b) Assessments shall be added to the property owner's tax bill for such period of years as is specified in the final resolution for the project in accord with B., below, with the principal amounts being paid in equal annual installments and the interest being charged in accord with C., below.
- B. **Installment Payment Option.** The Village Board shall specify the number of annual installments to be allowed with respect to any single project to be engaged in and financed through the use of special assessments. The number of annual installments per project to be allowed shall not be more than twenty (20). For any term decided on by the Village Board, the affected **property owner shall have the right to request a shorter payback period** in the term of 5 or 10 years, **as an alternate to the longer period allowed** by the Village Board.
- C. **Interest.** The interest rate charged shall be equal to 1% above the Village's cost of borrowing the necessary funds. Interest shall begin to accrue after the 60<sup>th</sup> day following the date of the final resolution or after November 1, whichever is sooner.
- D. **Payments.**
- (1) Annually, on November 1, the installment payment plus interest accruing through December 31 shall be placed on the tax roll without notice. Amount shall be due and payable by January 31 of the succeeding year.
  - (2) The property owner may make additional payments to the principal balance at any time. However, this will not eliminate the annual amount being placed on the tax roll.
- E. **Deferral of special assessments.** When benefits accrue to properties which are undeveloped or unplatted, the owner may request that the assessable cost of his or her benefits be deferred by the Village Board for a defined period of time, or as an alternative, the Village Board may decide to defer special assessments in accord with §66.0715, Wis. Stats. The Board will assess an amount of money, in lieu of interest, for the amount of time that the assessment is deferred. At the time development begins, the assessment will be recorded as active and the standard payment option will apply, with interest accruing from that point at the interest rate as determined above.
- F. If the property upon which the special assessments have been charged is sold, then and in that event any remaining annual installments shall become due and shall be paid prior to or at the time of sale. However, in the event that more than five lots located in the same subdivision are sold at the same time to the same buyer, the Village Board may waive the immediate payment of the remaining annual installments under such terms and conditions it may deem appropriate to impose as a condition to such waiver.