

Chapter 12. SPECIAL ASSESSMENTS

Section 12.10. Authority. This Chapter is adopted pursuant to sections 66.0701 and 60.77(4), (5)(bs), and (5m), Wis. Stats.

Section 12.20. Purpose.

(a) The purpose of this Chapter is to provide for the securitization of financial assistance provided to landowners for the purpose of replacing private sewer systems with a connection to the public sewer system. The power of special assessment as provided for in this Chapter shall only be exercised against a parcel of real property with the consent of the owner of the parcel at the time of the assessment.

(b) Any special assessment made by the District for purposes or under conditions other than as set forth in subsection (a), above, shall be made under sec. 66.0703, Wis. Stats.

Section 12.30. Basis for assessments. Any assessment made under this Chapter shall be made pursuant to the District's police power. The improvement for which each assessment is made shall provide a benefit to the property against which it is assessed. The connection to the public sewer system of buildings used for human habitation promotes the public health, comfort, convenience, and welfare of the district by protecting the environment from ground water and surface water pollution and by strengthening the financial stability of the District by increasing sewer user charge income.

Section 12.40. Public improvements for which special assessments may be levied. Pursuant to sec. 66.0713(d), Wis. Stats., a public improvement is the result of the performance of work or the furnishing of materials or both, for which special assessments are authorized to be levied against the property benefited by the work or materials. A special assessment may be levied under this Chapter for costs associated with the following public improvements:

(a) Abandonment of existing private sewer system.

(b) Connection to public sewer system, including the required initial sewerage service charge under sec. 4.30.

Section 12.50. Procedure.

(a) The owner of a parcel of real property within the District who desires to obtain financial assistance in the form of a loan from the District for a public improvement under sec. 12.40, shall apply to the District for such loan, providing to the District all of the following:

1. The name, mailing address, and phone number(s) of the contact person for the loan application.

2. The names and mailing addresses of all owners of the property, whether any of them are married, and whether the property is the homestead of any of them.

3. The location of the property including, as available, the street address, fire number, legal description, and parcel identification number.

4. The amount of the loan requested and the purpose.

5. A contractor's written estimate of the cost of providing the public improvement for which the loan is requested.

6. A statement, provided by the District, signed by all owners, indicating that each owner understands that the amount of the loan will be secured by a special assessment against the property and which will require annual payments to retire.

(b) The Commission may require an application fee in an amount sufficient to cover the costs of a title report on the property and any other costs associated with processing the application.

(c) Upon receipt of an application as provided in subsection (a), above, the Commission shall obtain a title report on the property confirming the names of the owners, the legal description of the property, and the existence of any liens on the property. The Commission shall then determine whether or not to grant a loan. If the Commission refuses to grant a loan it shall provide a written notice to the applicant, with a reason for the denial. If it decides to grant a loan, then it shall provide a written notice to the applicant, containing the following:

1. The principal amount of the loan to be granted, which shall be equal to the special assessment levied.

2. The interest rate to be applied to the principal amount of the loan and special assessment.

3. The number of annual installments to be made to pay off the loan and special assessment, the due date of the initial installment and of the subsequent installments, the amount of each installment, and whether any penalties attach for failure to make a payment by its due date.

4. Space provided for the notarized signatures of each of the owners stating (A) whether they wish to have a hearing on the special assessment or wish to waive the hearing and (B) stating whether they accept the terms of the loan and special assessment or not, and a request that if the owners accept the terms as stated they should return the statement, signed and notarized, to the District.

(d) If all of the owners do not waive their right to a hearing on the special assessment, the Commission shall schedule a hearing on no less than 10 days' and no more than 40 days' notice to the owners. Notice shall be provided by first class mail to the address given by the owners in their application.

(e) If all of the owners waive their right to a hearing and if they have provided the signed and notarized statement of the owners accepting the terms of the loan and special assessment, the Commission may approve a special assessment resolution. The resolution shall contain the following:

1. The nature and location (including legal description of the real property against which the special assessment shall be levied) of the public improvements to be funded by the special assessment.

2. The cost of the public improvements to be funded by the special assessment.

3. A statement that the special assessment is made pursuant to the District's police power and that a benefit shall be provided to the property against which the special assessment is levied.

4. The number, amount, and due dates of the installments to be permitted to pay the special assessment, and whether any penalties attach for failure to make a payment by its due date.

5. A notice to the owner, substantially in the form as provided in sec. 66.0715(3)(e), Wis. Stats., advising the owner of the right to elect to pay off the entire special assessment by the following November 1, by providing to the District within 30 days of the date of the notice a written statement making such election, and providing further that, unless such election is revoked in writing, if the owner fails to pay the special assessment by November 1, the entire assessment shall be placed on the following tax roll. An owner who wishes to pay the special assessment in installments as provided in the resolution need not take any action pursuant to the notice.

6. The statement that all assessments or installments that are not paid by the due date shall be extended upon the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return, and sale of property for delinquent real estate taxes apply to the special assessment, except as provided by statute.

7. Notification that the owner of the real property against which the special assessment is levied has the right to appeal in the manner prescribed by sec. 66.0703(12) within 40 days of the date of approval of the resolution, that no funds will be released until the expiration of the appeal date and will not be released if an appeal is filed, and that if the owner wishes to cancel the special assessment during the 40 day period the owner may do so by providing written notice to the District.

8. Provide that if the special assessment is found by a court of competent jurisdiction to be invalid for any reason, the owners and their successors and assigns, upon request of the District, shall execute a mortgage on the property against which the special assessment was levied, for the amount of the loan then unpaid, with repayment terms as provided in the special assessment resolution.

(f) Upon expiration of the appeal period the Commission may release the funds upon such proof of work and receipt of such construction lien waivers as the Commission deems prudent.

Sec. 12.60. Report of special assessment to Town Clerk. Upon the levy of any special assessment under this Chapter, the District shall report the assessment to the Town Clerk.

Sec. 12.70 Effect of special assessment.

(a) All assessments or installments that are not paid by the due date shall be extended upon the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return, and sale of property for delinquent real estate taxes apply to the special assessment, except as provided by statute.

(b) A special assessment is a lien on the property against which it is levied from the date of the levy.

Sec. 12.80. Special assessment installments. Sec. 66.0715(1) and (3), Wis. Stats., are incorporated by reference.

Sec. 12.90. Special assessment found invalid. If any special assessment levied under this Chapter shall be found by a court of competent jurisdiction to be invalid for any reason, the District may re-assess the special assessment under any applicable law, or proceed against the owner of the property in personam for recovery of any unpaid amount of the special assessment.