

Chapter 48PROCEDURE FOR TAXES OR ASSESSMENT FOR LOCAL IMPROVEMENTS**Sections:**

- 48-1 AUTHORITY TO IMPOSE TAXES OR ASSESSMENTS FOR LOCAL IMPROVEMENTS; PURPOSES**
- 48-2 (RESERVED)**
- 48-3 HOW IMPOSED**
- 48-4 (RESERVED)**
- 48-5 HOW COST ASSESSED OR APPORTIONED**
- 48-6 (RESERVED)**
- 48-7 VOLUNTARY AGREEMENTS**
- 48-8 THROUGH 10 (RESERVED)**
- 48-11 ASSESSMENTS TO BE REPORTED TO THE DIRECTOR**
- 48-12 (RESERVED)**
- 48-13 NOTICE TO LANDOWNER OF AMOUNT OF ASSESSMENT**
- 48-14 HOW NOTICE GIVEN; OBJECTIONS**
- 48-15 APPEAL TO COURT; DUTY OF CLERK OF GOVERNING BODY, ETC**
- 48-16 HOW SUCH APPEAL TRIED; LIEN OF JUDGEMENT; WHEN TO TAKE EFFECT; HOW ENFORCED**
- 48-17 DOCKETING OF ABSTRACTS OF RESOLUTIONS OR ORDINANCES**
- 48-18 INSTALLMENT PAYMENT OF ASSESSMENTS**
- 48-19 RELEASE OF LIENS DOCKETED**
- 48-20 (RESERVED)**

Adopted by Town Council 5-11-98 (*Repealed Section 134-56 – 134-63 and 142-8 – 142-16 at time of adoption*)

48-1 AUTHORITY TO IMPOSE TAXES OR ASSESSMENTS FOR LOCAL IMPROVEMENTS; PURPOSES

The Town may impose taxes or assessments upon the owners of abutting property for constructing, improving, replacing or enlarging the sidewalks upon existing streets, for improving and paving existing alleys, and for the construction or the use of sanitary or storm water management facilities, retaining walls, curbs and gutters. Such taxes or assessments may include the legal, financial or other directly attributable costs incurred by the Town in creating a district, if a district is created, and financing the payment of the improvements. The taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owners. No tax or assessment for retaining walls shall be imposed upon any property owner who does not agree to such tax or assessment.

In addition to the foregoing, the Town Council may impose taxes or assessments upon the owners of abutting property for the construction, replacement or enlargement of waterlines; for the installation of street lights; for the construction or installation of canopies or other weather

protective devices; for the installation of lighting in connection with the foregoing; and for permanent amenities, including, but not limited to, benches or waste receptacles.

Other than by voluntary agreement, any tax or assessment imposed for a local improvement shall be set by the Town Council by ordinance as provided herein.

The Town's assessment ordinances and policies shall be construed and interpreted to comply with the laws of the United States and the Commonwealth of Virginia, granting no additional rights or interest to the landowner and no additional restrictions or limitations upon the assessment authority of the Town than imposed by Federal and State law.

48-2 (RESERVED)

48-3 HOW IMPOSED

Such improvements may be ordered by the Town Council and the cost thereof apportioned in pursuance of an agreement between the governing body and the abutting landowners, and, in the absence of such an agreement, the cost of improvements which is to be defrayed in whole or in part by such tax or assessment, may be ordered on a petition from not less than three-fourths (3/4) of the landowners to be affected thereby or by a two-thirds (2/3) vote of all the members elected to the Town Council. Notice shall be given to the abutting landowners, notifying them when and where they may appear before the Town Council, or such committee or administrative board or other similar board of the Town which the Town Council may appoint for that purpose and to whom the matter of assessment may be referred, to be heard in favor of or against such improvements.

48-4 (RESERVED)

48-5 HOW COST ASSESSED OR APPORTIONED

The cost of such improvement, when the same shall have been ascertained, shall be assessed or apportioned by the Town Council, or by some committee thereof, or by any officer or board authorized by resolution of the Town Council to make such assessment or apportionment, between the Town and the abutting property owners when less than the whole is assessed, provided that, except when it is otherwise agreed between the Town and the landowner, that portion assessed against the abutting property owner or owners shall not exceed one-half of the total cost.

Notwithstanding any other provision of this Chapter, any portion of the cost of such improvements not funded by such special assessment may be paid from federal or state funds received by the Town for such purpose.

48-6 (RESERVED)

48-7 VOLUNTARY AGREEMENTS

Assessments put on by agreement between the Town and a landowner for local improvements and associated facilities shall comply with the Town's "**POLICY FOR ASSESSMENT FOR THE INSTALLATION OF LOCAL IMPROVEMENTS**" as approved by the Town Council. A copy of the written policy is to be available to the public at the Town Hall during the normal business hours of the Town government.

48-8 THROUGH 10 (RESERVED)**48-11 ASSESSMENTS TO BE REPORTED TO THE DIRECTOR OF FINANCE;
POSTPONEMENT OF PAYMENT BY CERTAIN PROPERTY OWNERS**

The amount assessed against each landowner, or for which he is liable by agreement, shall be reported as soon as practicable to the Director of Finance, who is the collector of taxes for the Town of Front Royal, or his designee, who shall enter the same as provided for other taxes.

The Town Council may provide for the postponement of the payment of such assessment by certain elderly or permanently and totally disabled property owners meeting certain conditions until the sale of the property or the death of the last eligible owner. Eligibility for postponement shall be subject to the conditions set forth in Virginia Code § 58.1-3211 and Town of Front Royal Code § 75-17.1 for such elderly or permanently and totally disabled persons.

The Town Council may provide, in the specific assessment ordinance, for the postponement of the payment of such assessment until the property owner actually connects to the public utility system. However, if the property is conveyed between the time the assessment is made and the time the property owner actually connects to the public utility system, then the entire amount due under the assessment becomes due and payable on the day of the conveyance. In any event, the entire amount of assessment due shall be paid no later than ten years from the creation of the assessment or district.

Unless otherwise provided for in the specific assessment ordinance, the entire amount of the assessment, or the first installment if the landowner is permitted and elects to make payment in installments, shall be due 30 days after the billing date. Upon substantial completion of the improvement, the Town Department overseeing the improvement shall immediately certify in writing to the Department of Finance the date of substantial completion, the Department of Finance shall then immediately cause a bill to be mailed, which date of mailing shall be the billing date, to each abutting landowner stating the amount due, which shall include the amount of the assessment and filing fees, and indicate the date due. Failure of the landowner to receive the mailed bill shall not relieve the landowner of the obligation to make prompt payment.

The Director of Finance shall enter those assessments postponed by the Town Council in accordance with the conditions prescribed as provided for other taxes, but the eligible property owner shall have the option of payment or postponement.

48-12 (RESERVED)**48-13 NOTICE TO LANDOWNER OF AMOUNT OF ASSESSMENT**

When the assessment or apportionment is not fixed by agreement, notice thereof, and of the amount so assessed or apportioned, shall be given to each of the abutting owners who shall be cited to appear before Town Council, committee, officer or board having charge of the matter, not less than ten days thereafter, at the time and place designated, to show cause, if he can, against such assessment or apportionment.

48-14 HOW NOTICE GIVEN; OBJECTIONS

The notice may be given by personal service on all persons entitled to such notice, except (i) notice to an infant, a mentally incapacitated person or other person under a disability may be served on his guardian, conservator or committee; (ii) notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having charge of the property or on the tenant of the property; or (iii) in any case when the owner is a nonresident or when the owner's residence is not known, such notice may be given by publication in a newspaper having general circulation in the Town once a week for four successive weeks. In lieu of such personal service on the parties or their agents and of such publication, the notice to 0 parties may be given by publishing the same in a newspaper having general circulation in the Town, once a week for two successive weeks; the second publication shall be made at least seven days before the parties are cited to appear. Any landowner wishing to make objections to an assessment or apportionment may appear in person or by counsel and state such objections.

48-15 APPEAL TO COURT; DUTY OF CLERK OF GOVERNING BODY, ETC

If a property owner's objections are overruled, he shall, within thirty days thereafter, but not afterwards, have an appeal as of right to the Circuit Court for the County of Warren. When an appeal is taken, the Clerk of the Town Council or the officer having charge of the matter, shall immediately deliver to the Clerk of the Court the original notice relating to the assessment, with the judgment of the governing body, committee, officer or board endorsed thereon, and the clerk of the court shall docket the same.

48-16 HOW SUCH APPEAL TRIED; LIEN OF JUDGEMENT; WHEN TO TAKE EFFECT; HOW ENFORCED

Such appeal shall be tried by the court in a summary way, without pleadings in writing and without a jury, after ten days' notice to the Town of Front Royal and the hearing shall be *de novo*. The amount finally assessed against or apportioned to each landowner, or fixed by agreement with him, as hereinbefore provided, shall be a lien enforceable in equity on his abutting land, from the time when the work of improvement has been completed, subject to his right of appeal and objections as aforesaid. Such lien shall be enforceable against any person deemed to have had notice of the proposed assessment under § 48-17, but if no abstract of the resolution or ordinance authorizing the improvement is docketed as provided in § 48-17, such lien shall be

void as to all purchasers for valuable consideration without notice and lien creditors until and except from the time it is duly admitted to record in the County of Warren.

48-17 DOCKETING OF ABSTRACTS OF RESOLUTIONS OR ORDINANCES

When any improvement is authorized for which assessments may be made against the abutting landowners, the Town Council may, before the amount to be finally assessed against or apportioned to each landowner or fixed by agreement is determined, and shall after such amount is finally determined, cause to be entered in the judgment lien book in the Circuit Court Clerk's office for the County of Warren, pursuant to Virginia Code § 15.2-104, an abstract of the resolution or ordinance authorizing such improvement showing the ownership and location of the property to be affected by the proposed improvement and the estimated amount or final amount that will be assessed against or apportioned to each landowner or fixed by agreement with him and the same shall be indexed in the name of the owner of the property. The Town Council may additionally, at the option of the Town Council, cause such abstract to be recorded in the deed book of the Circuit Court Clerk's office for the County of Warren, pursuant to Virginia Code § 15.2-2412. Such assessment shall be a lien solely on the abutting land as provided in § 48-16.

After the completion of the improvement, any estimated amount shall be amended, to show the amount finally assessed against or apportioned to each landowner or fixed by agreement with him, which final amount shall in no event exceed the estimated amount for the improvements as initially authorized. The amount finally assessed against or apportioned to each landowner may be greater than the initially assessed amount when the increased amount is for additional work being performed when the work was requested by the landowner and the additional work and its estimated amount is written into a separate agreement between the Town and the affected landowner. From the time of the docketing of such abstract, any purchaser of, or creditor acquiring a lien on, any of the property described therein shall be deemed to have had notice of the proposed assessment.

Any fee charged by the Clerk of the Circuit Court for recording an abstract of the assessment evidencing a lien for an assessment on an abutting property, shall be paid by the Town and be added to the amount of the lien.

48-18 INSTALLMENT PAYMENT OF ASSESSMENTS

Persons against whom the assessments have been made may pay such assessments in equal installments over a period of eight (8) years or if provided for within the specific assessment ordinance, up to 18 years. Such assessments may be paid in equal annual installments; provided, however, that one-ninth (1/9) of the assessment on an 8 year payment period, or the equivalent *pro rata* share if a longer installment period is provided, shall be paid on or before the due date, and the balance shall be paid in equal, proportional, annual installments thereafter together with interest on the unpaid balances at an annual interest rate, as set in the assessment ordinance, not to exceed the rate of one-year United States Treasury Bills at the time the assessment ordinance is adopted, which rate shall be determined by the Director of Finance. Such installments shall become due at the same time that real estate taxes become due and payable in the Town, and the amount of each installment, including principal and interest, shall be shown on a bill mailed not

later than fourteen days prior to the installment due date to each such person by the treasurer or his designee. If any annual installment is not paid within thirty (30) days after the due date, then the entire unpaid balance shall be declared due and payable and collected in any manner permitted by law.

48-19 RELEASE OF LIENS DOCKETED

The Director of Finance or his designee shall upon discharge of a lien docketed for an assessment as provided for herein by payment in full of the entire balance of the amount of any assessment and interest, deliver a certificate of payment to the property owner and shall execute any other certificate or release, partial or otherwise, as may be required by law. Upon presentation of the certificate, the clerk of the circuit court of Warren County shall mark the lien satisfied in the amount noted on the certificate.

48-20 (RESERVED)

(Ord. No. 6-98 Added Entire Chapter 5-11-98-Effective Upon Passage)