

**Special Assessment Policy**  
**Approved on October 1, 2019**  
**Approved Amendment on August 16, 2022**  
**Resolution No. 22-42**

**Purpose:**

The City's special assessment policies and procedures have been established to:

1. Provide a stable and continuing source of funding within the financial capacity of the City, in combination with federal, state, county, and other local financial resources available to the City, to accommodate infrastructure needs for new development, redevelopment, and maintenance within the existing community in the most cost-effective manner.
2. Balance needs and costs for new and existing infrastructure to support and promote economic development and growth as well as maintenance within the existing community by providing for the equitable distribution of infrastructure costs to ensure that specific developments are financially self-supporting to the extent warranted.
3. Provide a comprehensive, well-constructed and well-maintained infrastructure system that services individual properties and takes advantage of economies on a regional scale and flexibility in the timing of infrastructure development.
4. Respond to community needs and desires for health, safety, welfare; accessibility, and mobility provided by new infrastructure and the maintenance of existing infrastructure.
5. Function in harmony with the City's comprehensive plan and growth area plans by providing the infrastructure and amenities associated with those plans thereby promoting orderly growth in areas where services are available or can be provided at the most reasonable cost.
6. Provide the City Council and staff with guidelines and methods to efficiently distribute infrastructure costs to benefiting properties in an equitable and consistent manner thereby enhancing the value of property by assigning a proportionate value of the improvements to the properties deriving benefit from the improvement.

**General Policy Statement:**

While the special assessment purposes, policies and procedures have been identified herein, the City Council may deviate from this policy when such rationale in equity arises or the law is required.

**I. Policy Definitions:**

- A. Adjacent Property: A property directly adjacent to public improvements.
- B. Access: Properties shall be considered to have access to public street improvements when they may enter onto the improvement from their own private driveway, private road, or public street, or when the street classification would allow the property to be granted driveway access. Properties shall be considered to have access to underground utility improvements when they directly abut the property or may be available to the property by utility or road easement/ROW, and the City has included the property within a defined services area approved for immediate utility service.
- C. Accrued Interest (or Compounded Interest): Interest which is calculated not only on the initial principal but also the accumulated interest of prior periods.
- D. Adjusted Area: An area of a benefited property that has been modified by an adjustment factor to more accurately represent the true benefit that property receives from an improvement in comparison to other properties in the assessment area. The adjustment will be based on the improvement design parameters that are applicable to that parcel, as approved by the City Council. Design parameters that may be used to determine the adjustment factor include, but are not limited to, trip generation, storm water runoff coefficients, water or sanitary sewer use, needed fire flow, and zoning or future land use.
- E. Assessed Cost: Those costs of public improvements that have been determined to benefit specific properties. The assessed cost will be equal to the project cost minus the City cost. Project costs eligible for assessment include all costs associated with the improvements, including, but not limited to, land acquisition, demolition, construction, administration, engineering, legal, financing and other costs as determined by the City Council. The financing charges include all costs of financing the project. These costs include, but are not limited to, financial consultant's fees, bond attorney's fees, and capitalized interest.
- F. Assessable Footage: The assessable footage is the total front footage of all of the benefiting properties, calculated by using the front footage method. (
- G. Assessment Rate: The assessment rate for improvements other than streets is determined by dividing the assessable cost of an improvement by the total number of assessment units such as the total adjusted front footage or square footage, acreage, number of lots, or number of parcels.
- H. Assessment Unit: Front footage, area, or unit used to compute the costs on the basis of individual assessments.
- I. Benefit: The increase in property value as a result of a public improvement such as a street, sidewalk, trail, curb and gutter, water main, sanitary sewer, storm sewer, park,

or street landscaping.

- J. Deferment: A process of postponing the collection of the cost of public improvements and funding them as a system cost with the intention of collecting the cost at a later date.
- K. Driveway Approach: That area which lies between the existing pavement to the right-of-way line; curb cut to curb cut. For assessment purposes driveway approach refers to the road surfacing, not stormwater conveyance such as ditching or culverts.
- L. Front Footage: The distance measured along the right-of-way line that directly abuts an improvement, not counting Side-Lot Footage.
- M. Limited Access Street: A street, such as a major or minor collector street, which because of its high volume of traffic has been designated by the City for controlled access, meaning the number of access points to the street will be limited.
- N. Lot Definitions:
  - 1. Corner Lot: A lot located at a street intersection having both front and side-lot footage.
  - 2. Double Frontage Lot: A lot with access to two separate non-intersecting or intersecting streets but not a corner lot.
  - 3. Irregularly Shaped Lot: Those lots abutting curved streets, cul-de-sacs, or other lots where there is more than five feet of difference in length between the front and back lot lines.
  - 4. Rectangular Lot: A lot with less than five feet of difference in length between the front and back lot lines.
- O. Public Improvement: Improvements as allowed by State statute that provide a special benefit to properties, including but not limited to streets, sidewalks, trails, curb, gutter, sanitary sewer systems, storm sewer systems, water treatment and distribution systems.
- P. Special Assessment: A legal process whereby the benefited property is charged for all or a portion of the cost of public improvements.
- Q. Standards for Surface Improvements: Standards for surface improvements have been established in the City's Engineering Standards.
- R. Street: All public ways designed as means of access to the adjoining properties. Streets are classified into five groups and classified per a Collector or Local street status in the City's Comprehensive Plan:
  - 1. Local Gravel – Local gravel streets have lower traffic counts as compared to collector gravel streets, have a gravel finish, and utilize rural ditches for stormwater conveyance. Examples include, but are

not limited to, 65<sup>th</sup> Ave N, 75<sup>th</sup> Ln N, 79<sup>th</sup> Ave N, 82<sup>nd</sup> Av N, 84<sup>th</sup> Ave N, Elmwood Dr, Harff Rd(east of Pioneer Tr), Grace Ln, Harff Rd(east of Pioneer Tr), Indian Tr, Owen St(North of Asphalt Cul-de-sac), Queen St, Salem Ln, Schendel Lake Dr(west of Pioneer), Sioux Tr, South Lake Sarah Dr, Tamarack St, West Lake Sarah Dr, Xenia St(north of Woodland Trail & north of Rebecca Park Tr

2. Collector Gravel - Collector gravel streets have higher traffic counts as compared to local gravel streets, have a gravel finish, and utilize rural ditches for stormwater conveyance. Examples include, but are not limited to, Greenfield Rd, Pioneer Tr(south of Woodland Tr & north of Rebecca Park Tr), Town Hall Dr, .
3. Local Asphalt – Local asphalt streets have a bituminous finish and utilize ditches for stormwater conveyance. Examples include, but are not limited to, . 66<sup>th</sup> Ln N, 69<sup>th</sup> Ave N(Riverwood Church St), 69<sup>th</sup> Ln N(east of Pioneer Tr), 70<sup>th</sup> Ave N, 71<sup>st</sup> Ave N, 71<sup>st</sup> Ln N, 73<sup>rd</sup> Ave N, 73<sup>rd</sup> Ln N, 76<sup>th</sup> Ave N, 78<sup>th</sup> Ln N, 82<sup>nd</sup> Ave N, 84<sup>th</sup> Ave N, 84<sup>th</sup> Ln N, 85<sup>th</sup> Ave N, 87<sup>th</sup> Ln N, 90<sup>th</sup> Ln N, 94<sup>th</sup> Ave N, 104<sup>th</sup> Ave N, Basswood Circle, Basswood Ln, Belle St(north of Pioneer), Cavanaugh Green, Cavanaugh Run, Cedar St, Country Circle, County Ln, Davis St, Erick St, Fern Ct, Fern Ln, Harff Rd(west of Pioneer Tr), Holloway Farms Rd, Hidden Ln(off of Sioux Tr), Ingram St, Kola St(north of Industrial District), Kurt St, Lake Sarah Heights Dr, Lake Sarah Ln, Lee St, Linda Ln, Linda Ln N, Mark St, Nielsen Circle, North Shore Dr, Nyle Ct, Owen St, Quail Ridge Tr, Scott St, Sterling Dr, Sunset Tr, Vernon Way, Whisper Creek Tr, Xenia Ct, Xenia St(south of Woodland Tr), Yvette St .
4. Collector Asphalt – Collector asphalt streets have higher traffic counts than local streets, have a bituminous finish, and utilize ditches for stormwater conveyance. Examples include, but are not limited to, Greenfield Rd(north of Harff Rd), Pioneer Tr(south of Rebecca Park Tr), Town Hall Dr(State Hwy 55 to 50 yards north of Country Circle),Vernon St
5. General Business & Industrial – General Business & Industrial streets have higher traffic counts than local streets, have a bituminous finish, and utilize curb and gutter for stormwater conveyance. Examples include, but are not limited to, 69<sup>th</sup> Ave N, 69<sup>th</sup> Ln N, Commerce Circle, Commerce Dr, Kola St(south of Townhomes,.

S. Street Treatment Definitions:

1. Crack Seal and Seal Coat - Crack sealing involves patching and sealing cracks in the roadway. This is followed by seal coating, which involves spraying the road with oil and covering it with a layer of small rock. Crack sealing and seal coating is generally considered

routine roadway maintenance. The recommended interval is 6-8 years with first application about 7 years after new roadway construction.

2. Mill and Overlay - Milling and overlaying consists of grinding off the upper layer of asphalt (in urban sections) and replacing it with a new layer of asphalt. This is generally done on roadways that have a fair amount of cracking and other surface distress, usually at about 60% of the street's life cycle. This is considered a structural improvement that will renew the street surface and extend its useful life.
3. Rehabilitate - Rehabilitating a roadway consists of grinding up the existing asphalt and mixing it with a portion of the underlying gravel base (typically 4"- 8"). This combination of bituminous and gravel is then used as the new road base, and a new asphalt surface is paved over this. This is generally done on roadways that have a significant amount of distress. This can be a good alternative to reconstructing a road if the existing road base appears to be structurally sufficient.
4. Reconstruct - Reconstructing a roadway includes improving a gravel road to a paved road or completely removing the existing road and underlying gravel and sand base material, and constructing a new road section. This may also include correcting any poor base material beneath the section, or updating the road to meet design standards such as width and drainage. This is often done in conjunction with utility repairs/replacement. Generally done on roadways that exhibit signs of major distress, such as rutting, cracking, and potholes.

T. **System Cost:** That portion of the assessable cost that benefits properties whose assessments are deferred because they qualify for green acres status, are located outside of the City limits, or are unable to make use of the improvements due to factors beyond their control. The City may reimburse itself for such system costs from the benefitting properties when the basis for the deferral is no longer valid.

U. **Unit:** A unit, for purposes of defining an assessment, may include, but is not limited to: a household; a parcel/lot; water or sewer main length and size; sidewalk or trail length, width and depth; driveway approach length, width and depth.

## II. Policy Implementation and Procedures:

### A. Assessment Classification

The assessment process shall address the feasibility of physical construction and also the affordability of the improvements. In meeting these responsibilities, a classification system is established below for public improvement projects based on the design capacity and the level of use. Cost apportionment is based on the extent of use of the improvement by the benefiting property owners and City policies for street paving, curb, gutter, and sidewalk construction shall be used as a basic guide. The classification system groups improvements into the three categories:

- **Type I improvements** consist of projects that are mostly of benefit to the abutting properties and

include local streets, curb, gutter, water and sewer services, and driveway improvements. Street construction, sidewalk, paving, storm sewer, sanitary sewer, and water mains may be Type I if solely designed to serve the abutting properties.

- **Type II improvements** consist of projects that benefit a larger, yet definable, area. Street construction, sidewalk, paving, storm sewer, sanitary sewer, and water mains may also be Type II if the improvement benefits a larger area. Collector streets, which are likely to be used by a broader segment of the public, should be proportionately assessed to a larger area.
- **Type III improvements** consist of large-scale projects of benefit to the entire City regardless of location. The criteria for designation of any improvement as Type III are facilities that serve areas larger than a definable neighborhood or those areas separated by major identifiable barriers, such as creeks, or county roads. Typically, Type III improvements are financed through a combination of Federal and State appropriations and available City funds; however, special assessments may be needed to fully fund the project.

If financial assistance is received by the City from the Federal Government, from the State of Minnesota, the County, or from any other source to defray a portion of the costs of a given improvement, such aid will be used first to reduce the "City cost" of the improvement. If the financial assistance received is greater than the normal "City cost", the remainder of the aid will be applied according to the terms of the assistance program or at the Council's discretion.

The assessment classifications are listed in Table 1 below. The City Council may from time to time adjust the classification of improvements to maintain the equitability of the assessment cost.

**Table 1. Assessment Classification**

<b>Type I Improvements</b>	<b>Type II Improvements</b>	<b>Type III Improvements</b>
Curb & Gutter	Trunk Sanitary Sewers (greater than 8" diameter)	Bridges
Sidewalks and trails, 5 feet wide or less	Trunk Water Main (greater than 8" diameter) and Looped Water Main	Community Facilities Library Law Enforcement Fire Station
Sanitary Sewer Laterals (less than or equal to 8" diameter)	Collector Streets	
Water Main (less than or equal to 8" diameter)	Sidewalks and trails, greater than 5 feet wide	Community Parks
Sewer & Water Services	Storm Drainage Improvements	Wastewater Treatment Facilities
Local Streets/Alleys	Pumping Stations	Water Tower
Storm Drainage Improvements		Water Treatment Plant
Other improvements mandated or authorized by law		

## **B. Methods of Assessment**

The City shall use the following methods in determining assessments for public improvements.

### **1. Front Footage Method**

This method computes the assessable frontage for the project and for each property. The assessment rate is obtained by dividing the total assessable cost by the assessable footage in an assessment district. The assessment for each parcel is then obtained by multiplying the assessment rate times the front footage for each property. Front footage is determined as follows:

- a. For rectangular lots, the front footage shall be the same as the front footage at the right-of-way.
- b. For irregularly shaped lots, the front footage will typically be calculated as the width of the lot as defined in the City's zoning ordinance, although other methods may be used at the City's discretion (such as average lot width) if they are determined to be more equitable.
- c. For all corner lots, street assessments, regardless of the orientation of the house, shall be based on one-half of the footage of the road being improved.
- d. For a rectangular corner lot, water and sewer assessments, regardless of the orientation of the house, the short side of the lot shall be considered to be the "frontage".
- e. Double frontage lots may be assessed for any street improvement that it has direct access to, if the lot is of such size that it could be split into multiple buildable lots. The front footage for each improvement will be determined in accordance with the above-described policies, whichever is appropriate.

### **2. Area Method**

This method computes cost on a square foot or acreage basis. The assessment rate is determined by dividing the total assessable cost by the total benefiting area. A parcel's assessment is then determined by multiplying the assessment rate times the benefiting area of the parcel. When the benefiting area includes both platted and un-platted properties, the gross benefiting area will be used to apportion the benefit among the properties. An adjustment factor reflecting land use may be applied to a parcel's benefiting area in some cases. For example, for storm sewer design, the assumed rate of runoff per acre from a commercial lot is greater than the runoff rate from a residential lot. If all uses are the same in a project area (single family, multi-family, commercial, or industrial), the assessment rate is the same for all. Where there is variation in residential density or uses, the assessment rate may be adjusted to reflect the corresponding differences in benefit.

The assessable area shall include all properties legally eligible for assessments. The following items may not be included in area calculations: public right-of-ways, natural waterways, lakes or other wetlands.

### **3. Unit Method**

This method computes the costs on the basis of individual assessment units. For example, sewer and water services, sidewalks, trails, and driveway approaches are typically considered separate individual units. The total project cost is divided by the total number of assessment units to calculate the fixed cost. Assessment units could be determined on a per

lot or per unit basis, or any combination thereof. For lots that may be further subdivided, the City may determine the number of assessable units based on the number of equivalent lots that could be created from a particular parcel.

4. Combination Method

This method involves using one or more of the above defined methods to more equitably calculate assessments. The combination method may be considered when there is varying land use, undeveloped properties available for future development, or other circumstances involving the defined public improvement that may provide assessment inequities.

**C. Determination of Assessable Costs, Rate and Term**

1. Water System

- a. Water Mains: The assessable cost for installing new water main improvements shall be based on the level of service required by the property. In residential areas, 100% of the cost of installing water main that is 8-inches in diameter or less shall be assessed to the benefiting properties, and up to 50% for reconstruction, see chart below. In commercial areas, 100% of the cost of installing new water main and 50% of the cost of reconstruction will be assessed, based on current design standards.

The cost of over sizing the water main for general distribution purposes shall not be assessed. Where larger diameter water mains are required to serve commercial, industrial or institutional properties, the increased cost of water main installation shall be assessed to those properties. Where improvements are designed to serve an area beyond that of direct benefit, the City may defer that portion of the assessment and fund it as a system cost.

**Reconstruction Assessments – Water System**

<b>Years After First Assessment Levied<sup>1</sup></b>	<b>City Share<sup>2</sup></b>	<b>Assessed Share<sup>2</sup></b>
0-20 years	100%	0%
20-40 years	75%	25%
Over 40 years	50%	50%

<sup>1</sup>First assessment refers to the original assessment for properties developed or platted at or before the time the improvement is constructed, or to the deferred assessment for properties developed or platted after the improvement is constructed.

<sup>2</sup>Percentage based on project construction cost. The assessed share of the project cost, as listed in the above table, will be apportioned against the benefiting properties. The City Engineer will use standard procedures to determine the benefiting property for each specific project.

- b. Water Services: The assessable cost for the construction or replacement of water services shall be 100% of the project cost. The unit cost method will be used to calculate the assessment.
- c. Length of Assessment: The assessment period for sanitary sewer improvements, including new construction and replacement projects, is a maximum of twenty years.



2. Sanitary Sewer

Sanitary Sewer Assessments shall be based on engineering design standards. The assessable cost for installing sanitary sewer improvements shall be based on the type of service required by the property. In residential areas, 100% of the cost of installing new sanitary sewer that is 8-inches in diameter; and up to 50% for reconstruction, shall be assessed to the abutting properties.

Where larger diameter sanitary sewers are required to serve commercial, industrial or institutional properties, the increased cost of installation shall be assessed to those properties. Where improvements are designed to serve an area beyond that of direct benefit, the City may defer that portion of the assessment and fund it as a system cost.

- a. Sanitary Sewer Assessment Formula: Assessments to be levied against properties within the benefited area shall be distributed to those properties on the basis of the following provisions:
  - 1. Assessment Rate: The assessment rate shall be equal to the "assessable cost" of the improvement divided by the total number of assessable units benefited by the improvement. Projects having an uneven distribution of benefits may be subdivided into separate improvements using multiple assessment methods and rates to more equitably apportion the assessments.
  - 2. Assessable Units: The assessable units shall be determined as follows:
    - i. *Lateral Sewers.* The assessment method shall be the "unit method", unless otherwise specified by the Council.
    - ii. *Trunk Sewer and Lift Station.* Trunk fees shall be charged as outlined in City Code, Chapter 50: Water and Sewers.
    - iii. *Sewer Services.* The assessable cost for the construction or replacement of sewer service lines shall be 100% of the project cost. The assessment shall be based on the number of sewer services installed for each individual property. This is the unit cost method of assessment.
  - 3. Assessment Formula for Replacement: The following table shows the cost split for replacement of sanitary sewers (trunk sewers, lateral sewers, and lift stations), if they are to be assessed.

**Reconstruction Assessments – Sewer System**

<b>Years After First Assessment Levied<sup>1</sup></b>	<b>City Share<sup>2</sup></b>	<b>Assessed Share<sup>2</sup></b>
0-20 years	100%	0%
20-40 years	75%	25%
Over 40 years	50%	50%

<sup>1</sup>First assessment refers to the original assessment for properties developed or platted at or before the time the improvement is constructed, or to the deferred assessment for properties developed or platted after the improvement is constructed.

<sup>2</sup>Percentage based on project construction cost. The assessed share of the project cost, as listed in the above table, will be apportioned against the benefiting properties. The City Engineer will use standard procedures to determine the benefiting property for each specific project.

4. Length of Assessment: The assessment period for sanitary sewer improvements, including new construction and replacement projects, is a maximum of twenty years.

3. Storm Sewer

Storm sewer improvements shall be classified to include all storm sewer, storm sewer pumping stations, culverts, ditches, rain gardens, swales, street grading and any other improvement, which will facilitate drainage. The assessment for the construction of storm drainage improvements shall be based on the level of service required by the property.

a. Storm Sewer Assessment Formula: Assessments to be levied against properties within the benefited area shall be distributed to those properties on the basis of the following provisions:

1. Assessment Rate: The assessment rate shall be equal to the assessable cost of the improvement divided by the total number of assessable units benefited by the improvement. Projects having an uneven distribution of benefits may be subdivided into separate improvements using multiple assessment methods and rates to more equitably apportion the assessments.
2. Assessable Units: The assessable unit, unless otherwise specified by the Council, shall be the gross area or adjusted area of the benefited properties, both present and future, as determined in the project design.
3. Assessable Cost: The assessable cost shall be 100% of the total project cost for new or expanded storm drainage improvements, and up to 50% for reconstruction, based on the chart below.
4. Length of Assessment: The assessment period for sanitary sewer improvements, including new construction and replacement projects, is a maximum of twenty years.

**Reconstruction Assessments – Storm Sewer**

<b>Years After First Assessment Levied<sup>1</sup></b>	<b>City Share<sup>2</sup></b>	<b>Assessed Share<sup>2</sup></b>
0-20 years	100%	0%
20-40 years	75%	25%
Over 40 years	50%	50%

<sup>1</sup>First assessment refers to the original assessment for properties developed or platted at or before the time the improvement is constructed, or to the deferred assessment for properties developed or platted after the improvement is constructed.

<sup>2</sup>Percentage based on project construction cost. The assessed share of the project cost, as listed in the above table, will be apportioned against the benefiting properties. The City Engineer will use standard procedures to determine the benefiting property for each specific project.

5. Assessment Formula for Replacement: The cost split for replacement of storm

sewers, lift stations, and miscellaneous drainage improvements, if they are to be assessed, will be assessed in the same manner as sanitary sewer replacement as shown above.

6. Length of Assessment: The assessment period for storm sewers, lift stations, and miscellaneous drainage improvements is a maximum of twenty years.

Where improvements are designed to serve an area beyond that of direct benefit, the City may defer that portion of the assessment and fund it as a system cost.

#### 4. New Street Construction

The City's general policy and practice is to require new residential street construction during land use development applications to be constructed to City standards by the developer/applicant with no special assessments or public bonding support.

#### 5. Street Reconstruction and Rehabilitation

- a. Reconstruction and Rehabilitation - The assessable cost of street reconstruction and street rehabilitation projects shall be determined by the benefit to properties affected by the project determined through a letter of benefit or similar from a licensed appraiser.

- a.1 The assessment shall be 90 percent of the lower 1/3 of the appraisal range value of the benefit. For example, if the benefit for a direct access residential property was valued from \$12,000-\$15,000 per unit, the assessment would be \$11,700,  $((\$15,000 - \$12,000) \times (0.3333) + \$12,000) \times 0.9 = \$11,700$ . If the benefit for an indirect access residential property was \$3,000-\$5,000 per unit, the assessment would be \$3,300,  $((\$5,000 - \$3,000) \times 0.3333) + \$3,000) \times 0.9 = \$3,300$ . The method of assessment shall be based on per unit. The remaining cost shall be a City cost.

1. For properties with access to the street receiving a reconstruction or rehabilitation, each existing unused development right and newly created development right resulting from the project will be assessed an amount equal to the assessment of a direct access property.
2. Landowners receiving assessments for existing unused development rights and newly created development rights may have the option of paying the entire assessment in one lump sum or through deferral until time of plat with no accrued interest during the period of deferral. Assessments will be filed with the County Recorder.

- b. Length of Assessment - The assessment period for street improvements is a maximum of twenty years.

#### 6. SIDEWALK

The front footage or unit cost method shall be the basis for assessment. The assessable cost for sidewalk improvements shall be 100% for both new construction and reconstruction up to 5 feet wide. Sidewalk maintenance and rehabilitation shall be repaired or replaced to the original standard and is the responsibility of the abutting property owner.

## 7. DRIVEWAY APPROACHES

Driveway approaches shall be part of the overall project and not assessed separately. The improvement to driveway approaches should be considered as the amount of benefit is established.

### **D. Deferred Assessments for Green Acres**

In cases where improvement projects are determined to benefit properties that have been certified to qualify for Green Acres exemption, the City will determine that portion of the project cost that benefits those properties, and finance that portion of the project cost as a system cost. Landowners of benefiting properties may have the option of paying the entire assessment in one lump sum or through deferral as allowed by Minnesota Green Acres statutes. Once the benefiting properties no longer qualify for Green Acres status, the City may recover the system cost. Interest will not be accrued during the period of deferral if assessed on a Green Acres parcel which is not designated as homestead property. Assessments to landowners of Green Acres parcels which contain both homestead and non-homestead assessment units will accrue interest during the period of the deferral on the homestead assessment units only. Assessments against Green Acres parcels will be filed with the County Recorder.

### **E. Deferred Assessments for Undeveloped Property**

In the Council's discretion, the City may, at the meeting in which the Council approves an assessment, levy the assessment but defer the first installment of the assessment for unimproved property until a designated future year, or until the platting of the property or the construction of improvements. However, all deferred assessments must be paid within 30 years of the assessment levy. The City Council may set, by resolution, terms, conditions, standards, and criteria for the deferral and future payments. Assessments deferred pursuant to this section shall not accrue interest during the period of deferral. The City shall file a certificate with the county recorder stating the legal description of property subject to deferred assessments, and the amount of the deferred assessments. The City shall include all benefitted property in the assessment proceedings, including those properties on which it determines to defer assessments.

### **F. Determination of Assessment Rate and Terms**

1. **Interest Rate on Assessments**: The City will charge interest on special assessments at a rate specified in the resolution approving the assessment roll. If bonds were sold to finance the improvement project, the interest rate shall generally be one percent (1.0%) more than the average rate of the bonds, rounded to the nearest quarter of a percent. If no bonds were sold, the interest rate shall be set using the same formula based on the current bond market.
2. **Length of Assessment**: The assessment period for all improvements is subject to the requirements of the bond market at the time of project financing and thus may vary in length from the time periods proposed.

### **G. Undeveloped Property**

The City shall require the developer, owner or sub-divider of any property within the City's corporate limits desiring to install street, curb and gutter, sidewalk, sanitary sewer or water main improvements to follow the City's subdivision ordinance, in addition to the following:

1. Upon written request by a developer, the City Council shall give consideration to the preparation of a feasibility report to determine the feasibility of construction for the desired

- improvements. The developer will prepare a plan and other such information, as the Council requires, prior to the Council making a decision on the request.
2. The developer and/or the property owner are required to sign a Developer's Agreement and Petition and Waiver Agreement, in a form acceptable to the City, prior to awarding a contract.
  3. At the completion of an improvement, all improvement costs will be recorded or certified to the County per the Developer's Agreement

#### **H. Petitioned Improvement Projects**

The City will consider petitioned improvement projects. However, the need for specific projects shall be determined based on engineering standards (e.g. the existing condition represents a physical or structural hazard, or is no longer cost-effective to maintain, etc.) as determined by the City Public Works Supervisor and City Engineer and approved by the City Council. The City may consider the following information in approving or denying the petition: comprehensive cost of the project; cost to individual properties; demonstrated need for the project; existing site conditions of the proposed project; geographic scope of the project area, and any other information the City deems relevant. The City Council has the authority to initiate non-petitioned improvement projects, if it is felt the improvements are in the best interest or safety of the citizens.

### **Special Assessment Procedures**

#### **Purpose:**

This procedure is for internal purposes to summarize statutory and administrative requirements with respect to special assessments. Changes occur statutorily on an annual basis and administratively through Council direction and administrative review on an on-going basis. Verification of any changes needs to occur prior to utilizing this document as those changes may supersede the contents of this document at the time of approval.

#### **Procedure:**

##### **I. Initiation of Proceedings**

Either a petition from affected property owners or the Council initiates Minnesota State Statute chapter 429 proceedings.

- A. By Petition: If the Council chooses to proceed with an improvement based on a petition it must have the signatures of the owners of at least 50 percent in frontage of the property bordering the proposed improvements.
- B. By Council: The Council may act on its own initiative in proposing a local improvement and ordering a feasibility report. The Council must calculate the cost of the improvement or direct staff to do so.

##### **II. Feasibility Report**

Whether initiated by petition or by Council, Chapter 429 requires that the city engineer, or another person with similar skills, prepare a feasibility report. The feasibility report must cover such factors as whether the project is necessary, the availability of money in the general fund to pay the city's share of the cost, an estimate of that cost, whether

the improvement is cost effective, and any other information necessary for Council consideration. The feasibility report must also include the estimated cost of the improvement as recommended. Since a reasonable estimate of the total amount to be assessed and a description of the methodology used to calculate individual assessments for affected parcels must be available at the hearing it could be part of the commissioned report. The feasibility report is integral to the assessment process. Best practice suggests that the City Council pass a resolution receiving the report and provide preliminary notice of the improvement.

### **III. Initial Considerations**

The law requires two public hearings commonly known as an improvement hearing and an assessment hearing; in between these two public hearings Council may order the improvement, decide how to construct the project and tabulate an assessment roll.

- A. Determining Benefit Districts: Determining what area benefits from improvement projects, or the area against which the City will levy assessments, is a major policy decision for the City Council. The benefit district varies with the kind of improvement. For some improvements, such as a water tank, the area benefited might be very large. In levying an assessment to finance the tank's construction the Council might assess the entire area the tank services. The special benefit test still applies. City staff, consulting engineers and attorneys may provide the basis for Council to determine what area or district to assess for a specific improvement because that area benefits from the improvement.
- B. City's Share: At any time before or after the City actually incurs expenses for the improvement, the Council must pass a resolution determining how much the City plans to pay and separate that from amounts to be assessed. Best practices suggest the Council work with an appraiser and an attorney to determine the appropriate City share of a particular project. The City has adopted a policy to address the methodology of the assessment calculations.
- C. Non-abutting Property: The Council may wish to levy assessments against adjacent, non-abutting properties if the properties benefit from the improvement.
- D. Service Laterals: City utility ordinance requires that property owners maintain private water and sewer service laterals. When an improvement project requires new service laterals the City may require that property owner to install or replace them.
- E. May Omit Improvement Hearing: The Council may omit the improvement hearing if 100 percent of the affected landowners sign the petition requesting the improvement. If the landowners are not paying 100% of the project costs the City will consider holding both public hearings.
- F. Two or More Simultaneous Local Improvements: When the City proposes undertaking two or more local improvements simultaneously the City does not need to issue separate notices and hold separate improvement hearings on different dates. The notice will describe each improvement separately, stating the estimated cost for each one and noting that there will be a hearing to address each improvement.

### **IV. Prepare for the Improvement Hearing**

The purpose of the first hearing is for the Council to discuss a specific local improvement

before ordering it done. The Council considers all the information in the feasibility report and any other information necessary for Council deliberation.

- A. Publish Notice of the Improvement Hearing: The City must publish notice of the initial public hearing on the proposed project twice in the official newspaper, stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The notices must appear at least one week apart. At least three days must elapse between the last publication date and the date of the hearing.
- B. Mail Notice of the Improvement Hearing: The City must mail a notice once to each property owner in the proposed assessment area, at least 10 days prior to the improvement hearing that states the time and place of the hearing, the general nature of the improvement, the estimated cost and the proposed assessment area. The notice must also contain a statement that a reasonable estimate of the cost of the assessment will be available at the hearing. The City will diligently make every effort to notify citizens about assessment proceedings. According to statute, failure to give mailed notice of the improvement hearing will not invalidate subsequent assessment proceedings. Notice to other governmental entities must be sent out at least two weeks before the improvement hearing, by registered or certified mail to the head of the instrumentality, department or agency having jurisdiction over the property.

**V. Improvement Hearing**

At the improvement hearing, interested persons may voice their concerns, whether or not they are in the proposed assessment area. A reasonable estimate of the total amount to be assessed and a description of the methodology used to calculate individual assessments for affected parcels must be available at the hearing. If the Council rejects the project, it may not reconsider that same project unless another hearing is held following the required notice. The Council must prepare a record of the proceedings and make written findings. The Council may adjourn and subsequently continue the improvement hearing. To provide proper notice, before the improvement hearing is adjourned, the Council must state on record, the date, time and place of the continuation of the improvement hearing, if any.

**VI. Ordering the Improvement**

A resolution ordering the improvement may be adopted at any time within six months after the date of the improvement hearing.

- A. Vote Requirements for Ordering the Improvement: If the improvement is made pursuant to a legally sufficient petition from property owners, the Council adopts the resolution by a simple majority vote of all members of the Council. If there is not a petition, adoption requires a 'super-majority' vote, meaning the council can only adopt the resolution by a four-fifths vote of all members of the Council.
- B. Time Limits for Local Improvements: The resolution ordering the improvement may be adopted at any time within six months after the date of the improvement hearing. Either arrangements for day labor or a contract must be made within one year of adopting the resolution ordering the improvement, unless the Council specifically states a different timeframe in the resolution ordering the improvement.

**VII. Competitive Bidding**

The law permits the Council to carry out, in advance of the assessment hearing, all the steps prior to, but short of, actually issuing of a contract for the improvement. Thus, if

the Council wishes to provide firm estimates of costs at the hearing, it may, in addition to the required preliminary report, prepare completed plans and specifications, advertise for bids, and open and tabulate them before the assessment hearing.

Once the Council orders a public improvement, staff or consultants prepare the necessary plans and specifications and the Council either:

- Contracts for all or part of the work to be performed by outside parties, or
- Orders all or part of the work to be done by city staff and contracts for any necessary materials and equipment.

In either case, contracting law applies. The City Attorney should coordinate the contracting process in combination with the special assessment process.

### **VIII. Prepare the Proposed Assessment Rolls**

The City Administrator/Clerk, with the assistance of the engineer or other staff prepares the proposed assessment rolls. The proposed assessment cannot exceed the increase in market value accruing to the property as a result of the public improvement project.

#### Road Assessment Calculations Components:

- A. Future Lots within the Combined Method Calculation: The maximum potential parcels are calculated with the current zoning.
- B. Cemeteries: A cemetery cannot be assessed in accordance with State Statute.
- C. Right of Way: Parcels that are entirely right of ways will not be assessed.
- D. Rounding: Calculation of assessment will need to be adjusted due to rounding. Practice is that \$.01 per parcel will be adjusted either positively or negatively beginning with the last parcel listed.

### **IX. Prepare for the Assessment Hearing**

The purpose of the second hearing is to give property owners an opportunity to express concerns about the actual special assessment. The Council will pass a resolution setting the date and time of the assessment hearing and direct the City Administrator/Clerk to publish and mail notice about the assessment hearing.

- A. Publish Notice of the Assessment Hearing: At least once and at least two weeks before the assessment hearing, the City must publish notice of the hearing in the city newspaper. The published notice must include the hearing time, date, place, overall project description, area to be assessed, total cost of the improvement, a description of a landowner's right to appeal the assessment, and any deferment options, if available.
- B. Mail Notice of the Assessment Hearing: At least two weeks before the hearing the City must mail notice of the hearing to each affected property owner. This mailed notice must include the amount of the special assessment against the individual parcels, a description of the landowner's right to appeal the assessment, possible prepayment provisions, and the interest rate on the assessments. Failure to comply with the requirements for published and mailed notice invalidates the assessments. The Administrator/Clerk will execute an affidavit attesting to the mailing to property owners.



**X. Assessment Hearing**

The assessment hearing may be adjourned and continued to another time. If the assessment hearing is adjourned, proper notice shall be given, stating for the record, the date, time and place of the continuation of the hearing.

- A. Resolution Adopting Assessment Roll: At the assessment hearing the Council shall hear and consider all objections to the proposed assessment, whether presented orally or in writing. The Council may change or amend the proposed assessment as to any parcel. Council must by resolution adopt the special assessment against the lands named in the assessment roll. Once the assessment roll is adopted the assessments are set and become liens against the properties listed. The Council must prepare a record of the proceedings and written findings as to the amount of the assessment roll at this hearing.
- B. Council Decides Interest of Special Assessments: Special assessments may bear interest at any rate the Council determines. In setting the rate the Council should make sure there is a reasonable relationship between the assessment interest rate and the bond interest rate if the City is issuing bonds to finance the project. If the city finances the project with funds on hand without using bonds, the Council will want to look at the interest rate the City would otherwise have earned on the funds.
- C. Council Decides Payment Timelines: The Council must also decide the number of years over which the property owners may pay the assessment. The statutes permit payment over a period of not more than 30 years.

**XI. Sending of Final Notice**

The law does not require that the City send final notice of assessment to property owners if the amount assessed is the same as that listed in the previously mailed assessment hearing notice. The City chooses to notify property owners of all final assessment amounts whether they differ from the proposed assessment or not. Staff will also notify owners by mail the interest rates and prepayment requirements as stated in the proposed assessment notice.

**XII. Certification of Special Assessment Rolls**

The City Administrator/Clerk must certify the assessment rolls to the County Auditor by November 30. The Assessment Rolls need to be accompanied by Council Resolution, certificate with the city seal signed by the City Administrator/Clerk and a rate card. The County Auditor spreads the assessment every year for collection with taxes.

**XIII. Payment of Assessments and Interest**

Property owners initially have two options regarding their assessment. They can either pay the total amount of their assessment immediately, or pay the assessments in annual installments with interest under the terms set by the Council.

The property owner can:

- Pay the entire amount of the assessment within 30 days after the Council adopts the assessment rolls with no interest.
- Pay the entire amount any time after 30 days, but before any certification has been made to the County Auditor with interest accrued to the date of payment.
- Any time after the certification the property owner may still pay the entire remaining unpaid amount to the City. The property owner must pay the entire remaining unpaid

amount of the assessment before November 15 of any year and must also pay all interest accrued until the end of that calendar year.

If the property owner elects not to pay the entire amount of the assessment at once, they may pay it in annual installments spread over the number of years the Council has allowed including interest calculated at the rate established by the Council.

**XIV. Deferred Assessments**

Deferred assessments are certified to the County Auditor but collection is deferred. All deferred assessments constitute liens on the property and must be paid within 30 years of the assessment levy. Property owners may request deferment provided the property owner or the property meets certain criteria. The City authorizes deferrals for undeveloped property and Green Acres deferrals. If the assessment deferral is for undeveloped property, or for a Green Acres assessment unit which is not designated as homestead property, no interest shall accrue during the period of the deferral. If interest is deferred with the assessment it will be computed on a compounding basis. Any interest on deferred assessments may be paid or deferred during the period of the deferral.

- A. Notice of Deferred Assessments: The City will record deferred special assessments with the County Auditor. The certificate of the deferred assessment will contain the type of deferral.
- B. Interest on Deferred Assessments: Property owners may pay interest (if applicable) either annually during the period of deferment, or when the assessment becomes payable. If interest is deferred with the assessment it will be computed on a compounded basis.

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