CITY OF GRAND RAPIDS

SPECIAL ASSESSMENT POLICY

CITY OF
GRAND RAPIDS
IT'S IN MINNESOTA'S NATURE

Date:

Adopted:	November 11, 1993
Amended:	April 26, 2004
Amended:	October 24, 2005
Amended:	December 8, 2008
Amended:	December 6, 2021

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SECTION I. – GENERAL

A. THE THEORY OF SPECIAL ASSESSMENTS

Special assessments are those charges levied against certain parcels of land for the cost of public improvements and for which the City Council has determined that said parcels being assessed will be specifically benefited by the improvement.

B. SPECIAL ASSESSMENT USES

Special assessments may be used to pay the cost of all or a portion of public improvement projects including the maintenance and/or repair of the City's infrastructure. Improvement projects include, but are not necessarily limited to the construction and/or reconstruction of streets, alleys, curb and gutter, sidewalks, driveway approaches, installation and/or replacement of water mains, sanitary sewers, storm sewers, sewer and water services, street lights, parking lots and parking lot lighting.

C. THE BENEFIT PRINCIPLE

Special assessments may be levied only upon property receiving a special benefit from the improvement. The rate must be uniform and levied equally upon all property receiving special benefits. Assessments must be confined to property benefited, and the amount of the assessment must not exceed the benefit.

The cost of any improvement, or any part thereof, may be assessed upon property benefited by the improvement, based upon the benefits received, whether or not the property abuts on the improvement and whether or not any part of the cost of the improvement is paid from the county state-aid highway fund, the municipal state-aid street fund or the trunk highway fund. The area assessed may be less than but may not exceed the area proposed to be assessed as stated in the notice of hearing on the improvement, except as provided below. The municipality may pay such portion of the cost of the improvement as the council may determine from general ad valorem tax levies or from other revenues or funds of the municipality available for the purpose. The municipality may subsequently reimburse itself for all or any of the portion of the cost of a water, storm sewer, or sanitary sewer improvement so paid by levying additional assessments upon any properties abutting on but not previously assessed for the improvement, on notice of hearing as provided for the assessments initially made. To the extent that such an improvement benefits non-abutting properties which may be served by the improvement when one of more later extensions or improvements are made but which are not initially assessed therefore, the municipality may also reimburse itself by adding all or any of the portion of the cost so paid to the assessments levied for any such later extensions or improvements, provided that notice that such additional amounts will be assessed is included in the notice of hearing on the making of such extensions or improvements. The additional assessments herein authorized by be made whether or not the properties assessed were included in the area described in the notice of hearing on the making of the original improvement.

SECTION II. – PURPOSE POLICY AND LIMITS

A. PURPOSE

The purpose of these Special Assessment policies is to set forth the policies and procedures for the determination of benefit and the assessment of cost of the various public improvements which are constructed and installed by the City of Grand Rapids pursuant to the law, the City Charter, and the order of the City Council. These policies shall serve as a guide for this and future City Councils, and for all persons concerned with such matters. It is the intent and purpose of these policies to provide for and insure consistent, uniform, fair and equitable treatment, insofar as is practical, lawful, and possible, of all property owners in regard to the assessment of cost for benefits to property for the various improvement of streets, sidewalks and utilities within the City of Grand Rapids.

B. POLICY

The City Council of the City of Grand Rapids hereby declares that the Assessment Policies contained herein are the policies that the City of Grand Rapids will follow as nearly as possible and practical. In order to keep the City's share of the cost of improvements to a minimum, and to avoid deferred assessments, no improvements shall be made outside the City limits unless a petition for annexation of the property to the City is signed, or the assessments against the benefited property can be collected by a voluntarily negotiated contract. This section is not intended to change or modify the policies of the Public Utilities Commission.

C. LIMITS

These assessment policies are designed to serve as a general guide for the City Council in allocating benefits to properties for the purpose of defraying the cost of installing public facilities. The Council reserves the right to vary from these policies if the policies act to create obvious inequities, or where the assignment of benefit to a particular property is difficult because of an extreme and unusual situation, or if such variance is deemed to be in the best interest of the City of Grand Rapids.

SECTION III. – SPECIFIC POLICIES RELATING TO SPECIAL ASSESSMENTS

A. ASSESSMENTS

Special assessments for public improvement projects will be determined by taking into consideration total project costs and an assessment formula based on front footage area or units basis. The total amount of assessments will not exceed the project cost and must be apportioned equally among properties having the same general land use based on benefit. The total assessment against any parcel shall not exceed benefit.

B. ASSESSMENT PERIOD

The standard term of assessment for public improvements shall be fifteen (15) years. The Council may, however, establish a shorter or longer term if it is determined to be in the best interest of the City.

C. INTEREST RATE

The interest rate to be used for special assessments will be equal to the interest rate on the bond issued to finance the project. The City Council shall set the rate in all cases not to exceed the legal maximum as stated in M.S. 429.061.

D. PROJECT COST SUMMARY

The City Engineer shall prepare a project cost summary using information from the project cost data report prepared by the City Finance Department, and with information available in the City Engineer's files. The summary will include all project expenses including, but not limited to:

- Construction Cost Including Materials.
- Publication Costs and Permit Fees.
- Legal Fees.
- Engineering Fees.
- Miscellaneous Expenditure.
- Administration Costs Including Audit Fees.
- Capitalized Interest. Capitalized interest shall be computed at the rate of the bond sale from the date of the bond sale to the date the assessment roll is approved by the City Council, or at the rate specified in Section C above in cases where bonds are not sold to finance a project. Any interest earned on investment of the bond proceeds shall be deducted from the above amount.

- Bond Sale Expenses, Including Bond Attorney Fees, Bond Consult Fees, and Printing Costs.
- Pavement Management Study Costs.
- Comprehensive Sewer Study Costs.
- Other Costs Which Are Deemed Appropriate To The Project.

E. TEMPORARY ASSESSMENT RELIEF

Special assessments for senior citizens and retired disabled homeowners may be deferred pursuant to Chapter 51 of the Grand Rapids Municipal Code. In addition, it shall be the policy of the City of Grand Rapids to defer assessments against those lands which qualify for deferment under Minnesota Agricultural Property Tax Law ("Green Acres" law), M.S. 273.111, as amended. On "New" construction projects, where property ownership does not meet the criteria described above, assessments can be deferred on undeveloped property, in accordance with Appendix B of this policy.

F. CITY SHARE OF PROJECT COST

Generally speaking, the City will not participate in street and utility project costs for new developments (see "H" below). Exceptions to the rule will involve the installation of larger than normal water mains and/or sanitary and storm sewer mains for transmission purposes, or when a larger and stronger than normal street is required. In these instances, the city's participation will be limited to those costs directly attributable to the over sizing. Additionally, it can be expected that the City will be a participant if it owns property in the proposed project area.

G. PRIVATE DEVELOPER PROJECTS

Improvement projects may be petitioned for by private developers. No special assessment for such improvements shall be left pending, and the developer requesting the improvements shall be required to fund and pay the special assessment installments for projects benefiting any such properties All preliminary engineering work for these improvements will be paid by the developer whether provided by the City or a consultant. A determination will be made by the City as to the suitability of each lot developed for building. Any lot determined to be of low suitability for building shall have the amount of any estimated special assessment paid in advance. The determination of suitability for building shall be at the sole discretion of the City and shall take into consideration but not be limited to such things as site slope, drainage gravity sewer service, water pressure and wetlands.

H. GOVERNMENT OWNED PROPERTIES

Governmental property shall be assessed in accordance with M.S. 435.19. Federal properties may or may not be exempt, assessment status should be determined prior to completion of a feasibility report.

I. FRONTAGE ROADS

Frontage roads along highway or other arterial streets are generally deemed to be of benefit only to properties served, therefore, the entire cost of any such improvement shall be assessed to the benefited property owners. The Council may consider special circumstances to determine benefit and adjust subsequent cost.

J. DELETION OF PROPERTIES

The City shall reserve the right to delete land within the improvement area from the assessment rolls if, in the opinion of the City, the land cannot be developed and/or is not benefited. In that event, no development of that property shall be permitted nor shall any physical connection to the City's water, sewer, storm drainage facilities or streets be made by any development on that property, unless and until an assessment (or connection fee) is adopted and certified.

K. SERVICE OUTSIDE THE CITY LIMITS

If the City installs facilities which benefit property which lies outside the corporate limits, that area and the allocable costs shall be included in the original public hearing for the improvement. The City may negotiate a contract with the owner of such property which will provide for payment to the City as if the property were within the City, and assessed for the improvement. Payment will be made upon completion of the project. If a contract cannot be negotiated, the improvement shall be reassessed to the benefiting property at the time of annexation. No physical connection to the City's sanitary sewer, water mains, storm sewer, or streets, will be permitted until an agreement and contact, including satisfaction of costs or assessments, is executed.

L. LATERAL EQUIVALENT

When a new trunk water distribution line, new trunk sanitary sewage collection line or new storm sewer trunk line which also serves as a lateral must be constructed in an area and oversized for design purposes to serve a larger area beyond the properties receiving lateral benefit, the assessments to abutting property shall be assessed a unit cost which shall be adjusted in accordance with Section V, paragraph A.

M. INTERSECTIONS

The cost of all improvements in street and alley intersections shall be included as part of the total project assessable costs.

N. FRONTAGE DEFINITIONS

For the purposes of special assessment using frontage as the basis for the assessments, the following definitions shall apply

- **Rectangular Interior Parcels-** The frontage shall be equal to the dimension of the side of the parcel abutting the improvement.

- **Rectangular Corner Parcels-** The frontage shall be equal to the dimensions of the shorter of the two sides.

- **Irregularly Shaped Interior Parcels-** The frontage shall be equal to the average width of the parcel.

- **Irregularly Shaped Corner Parcels-** The frontage shall be equal to the average width of the parcel. This width shall be the shorter average of the sides.

- **Interior Parcels Less Than 150 Feet in Depth Which Abut Two Parallel Streets-** The frontage for a given type of improvement shall be calculated on only one side of the parcel.

- **End Parcels Less Than 150 Feet in Depth Which Abut Three Streets-** The frontage for a given type of improvement shall be calculated on the same basis as if such parcel was a corner parcel abutting the improvement on two sides only.

- **Interior Parcels Greater Than 150 Feet in Depth Which Abut Two Parallel Streets-** The frontage for an improvement shall be calculated independently for each frontage unless other city regulations prohibit the use of the parcel for anything but a single family residence, in which case, the average width is the total frontage.

- **Parcels Which Have Two Sides Abutting A T-Alley-** For the purposes of alley improvements, the frontage shall be equal to the dimension of the smaller of the two sides abutting the improvement.

O. USE OF CONNECTION FEES

Connection fees shall be applied to properties that did not pay for their share of an improvement and subsequently want to "hook up" to water, sewer, storm sewer, and streets. These situations usually occur when property is newly annexed or platted. Connection fees for all or a portion of the cost of such improvements will be levied at the time the property is annexed or platted or when the connections are made. The expected life of the improvement shall be considered when calculating each individual connection fee.

P. TAX FORFEITED PROPERTIES

Properties which have been forfeited for non-payment of taxes are subject to possible reassessment pursuant to Minn. Stat. Sec. 429.071. The amount of special assessments subject to reassessment is determined by Council resolution following sale by the County of the tax forfeited land. Following the sale of a tax forfeited property; the City may conduct an assessment hearing and re-assess the amount remaining unpaid on the original assessment. The assessment terms and conditions will be determined by the City Council. In re-assessing such property, the City will follow the same procedure as for an original assessment under M.S. 429.061 including advance notice and public hearing.

Q. TAX EXEMPT PROPERTIES

Private cemeteries, churches, hospitals, schools and similar institutions must pay special assessments. Railroads are also exempt from special assessments. The land and property of any not-for-profit or otherwise tax exempt cemetery association shall be exempt from all special assessments.

R. IMPROVEMENTS WITHIN A STATE OR COUNTY HIGHWAY

City Initiated highway improvements will not be assessed.

S. REAPPORTIONMENT

Special assessments that have been levied against a tract of land that is subsequently subdivided may be reapportioned pursuant to M.S. 429.071 and Grand Rapids Municipal Code section 22.06.

SECTION IV. – PROCEDURES

A. GENERAL

The City shall follow the procedures set forth in Minnesota Statutes Chapter 429.

SECTION V. – METHODS OF DETERMINING ASSESSMENTS

A. NEW IMPROVEMENTS

It shall be the policy of the City to assess benefited property by frontage, area or unit. The City may alter or change the method of assessment if such change is more equitable and appropriate. The following shall apply to new improvements.

All facilities which represent new service to areas previously without City service shall be assessed as described below.

- **Sanitary Sewer/Water Main**
  Properties zoned CBD, GB, LB, HC, M, AP, and PU, will be assessed 100% of the cost of the improvement regardless of main size.

  Properties zoned I-1, I-2, and AG, will be assessed 10% of the cost of the improvement regardless of main size.

  All other zoned properties will be assessed 100% of the cost of improvement for an 8 inch diameter main. Lift stations will not be assessed.

  If a property owner has constructed a new well or septic system within the past twenty years, and the well and/or septic system is still compliant, the property owner shall receive a credit towards the well/septic upon presentation of a receipt identifying the installation cost of the well/septic. The credit shall be calculated by taking the original cost of installment and straight line depreciating it over a twenty-year period with the credit being the remaining value of the period. Example: Original cost of improvement was $20,000, the city assessment is levied ten years after the well/septic is installed, the property owner receives a $10,000 credit towards the assessment.

- **Storm Sewer Systems**
  Properties zoned CBD, GB, LB, HC, M, AP, and PU, will be assessed 100% of the cost of the improvement regardless of main size.

  Properties zoned I-1, I-2, and AG, will be assessed 10% of the cost of the improvement regardless of main size.

  All other zoned properties will be assessed 100% of the cost of improvement. The conversion from an existing rural ditch section to an urban catch basin collection system is considered reconstruction and paid for through the Storm Water Utility.

- **Streets**
  Properties zoned CBD, GB, LB, HC, M, AP, and PU, will be assessed One hundred percent (100%) of the cost of street (paving or any other street improvement) and curb and gutter improvements shall be assessed against benefited property on a front foot basis, except as outlined hereafter. The cost of each improvement shall include costs of intersections and related drainage facilities.
  Properties zoned I-1, I-2, and AG, will be assessed 10% of the cost of the street (paving or any other street improvement) and curb and gutter improvements shall be assessed

against benefited property on a front foot basis, except as outlined hereafter. The cost of each improvement shall include costs of intersections and related drainage facilities.

Properties zoned R-1, SR-1, R-2, SR-2, R-3, SR-3, R-4, and SR-4, shall be assessed 100% of a typical 32 foot wide urban residential street. See Appendix "A" for typical construction items spreadsheet.

Properties zoned RR and SRR, shall be assessed 100% of a typical 28 foot wide rural residential street. See Appendix "A" for typical construction items spreadsheet.

Where an existing gravel street is being converted to a paved street, the benefitting property owners shall be assed at a 0% rate for those items that typically exist prior to the improvement. Examples of construction items are: excavation, aggregate base, turf establishment, traffic control, etc. Typical items that should be assessed 100% would be bituminous pavement, and curb & gutter.

- **Sidewalks**
  The City may install and assess sidewalk. The project costs shall be assessed to abutting properties on a front foot basis. The City shall assess the cost of new sidewalks as follows:

  - New Developments 100%
  - Developed Areas 0%

  Areas where sidewalks are installed on only one side of the street and it is not anticipated they will be installed on the other side at a later time, the assessment shall be split between the benefiting properties on both sides of the street.

- **Benefit Areas for New Construction**
  The delineation of benefit areas related to the assessment of new construction will be determined under the following conditions and not necessarily under the ½ block policy shown in Appendix A.

  City Initiated Projects – If a public infrastructure project is initiated by the city council, in general, the following criteria for defining the benefit area should be considered.

  Street – Does the parcel have two points of access from existing streets? If the parcel does, then it should be considered for elimination of a street benefit unless circumstances can justify a benefit (i.e. large lot that is able to be subdivided).

  Water Main – Does the parcel have two sources of water feeding the main currently serving the parcel? If the parcel does, then it should be considered for elimination of a water main benefit unless circumstances can justify a benefit (i.e. large lot that is able to be subdivided).

  Storm Sewer – Is there the potential of storm water run-off from the parcel to the proposed storm sewer? If yes, then the parcel should be included in the benefit area.

  Sanitary Sewer – Is the parcel currently served by a sanitary sewer main? If yes, then the parcel should not be included in the benefit area unless circumstances can justify a benefit (i.e. large lot that is able to be subdivided).

After taking the above criteria into consideration, assessable units for each infrastructure shall be calculated in accordance with the assessment policy and "applied" benefit shall be calculated. If a parcel does not abut an infrastructure improvement but meets the criteria described above, and City staff have concerns with the generated "applied" benefit, City staff shall recommend to the City Council that "before/after" appraisals be conducted to determine benefit.

- **Developer Projects**
  If a public infrastructure project is initiated/petitioned by a developer, 100% project costs shall be assessed to the developer's parcels and the developer shall waive all rights to appeal of the project assessments.

B. RECONSTRUCTION/REHABILITATIVE IMPROVEMENTS

The City of Grand Rapids will not assess for infrastructure that is replaced, rehabilitated or maintained. This includes reconstruction of sanitary sewers, watermains, storm sewers, streets, alleys, sidewalks and overlays/seal coats.

SECTION VI. – LIFE EXPECTANCY OF IMPROVEMENTS

A. GENERAL

The expected life of improvements shall be considered when any infrastructure component is reconstructed. A straight line pro rata portion shall be assessed to benefited property based on the age of the component and the life expectancy of the component. For example, if an existing component is 17 years old and has a life expectancy of 40 years, 17/40 of the cost of reconstruction shall be assessed subject to the provisions of Section V. If failures are caused by a change in use, the Council at its discretion, may assess one hundred (100%) of the replacement cost to benefiting properties. Credit towards life expectancy shall be effective towards any improvement made after November 11, 1993.

B. LIFE EXPECTANCY

- **Water Mains: 40 Years**
- **Sanitary Sewer: 40 Years**
- **Storm Sewer: 50 Years**
- **Streets: 38 Years**
- **Sidewalks: 38 Years**
- **Driveway Aprons: 38 Years**

SECTION VII. – WORK BY OTHERS

A. WORK BY PRIVATE DEVELOPERS

Work by private developers shall occur only within the boundaries of private property. Any public utility or street construction work within a public right-of-way shall be done only after an agreement with the City is executed.

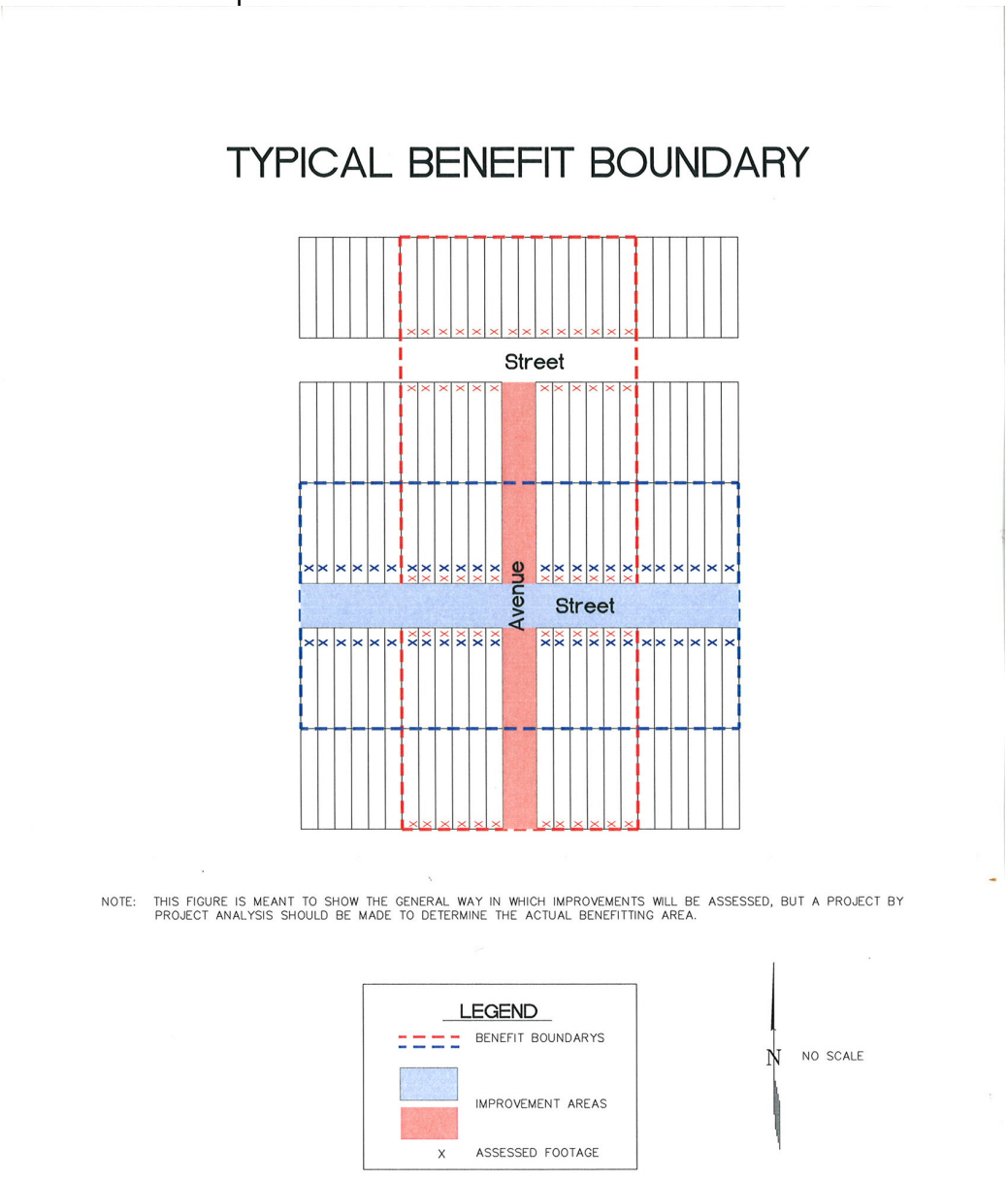
B. WORK BY PROPERTY OWNERS

Property owners may not place or have placed any improvement in, nor in any way alter, the public right-of-way, without approval of the City. A permit is required before any work is done in the public right-of-way.

APPENDIX A

A. BENEFIT BOUNDARY FOR ASSESSMENTS

Generally improvements made in the right of way along property frontage shall be assessed to that frontage. Improvements made in the right of way along property side yards shall be assessed to the frontage. In determining the frontage to assess these improvements to, consideration shall be given to the length and shape of the block but generally speaking assessments will be spread one half-block on each side of the improved side street. See figure below for basic concept



B. TYPICAL CONSTRUCTION ITEMS (TCI)

Urban and Rural Residential street assessments will be calculated utilizing the TCI method to determine the typical project cost. Once the typical construction cost is calculated it will be increased by the percentage of non-construction costs to determine the typical project cost. Once the typical project cost is calculated it is divided by the assessable footage resulting in an assessment rate. The following tables shall be used to calculate the typical project cost:

Urban Residential Table

Description	Unit/LF	Quantity/LF	Tot Quan.	Unit Price	Total Price
Common Excavation	CY	0.648			
Aggregate Base Class 5	CY	0.648			
B618 Curb & Gutter	LF	2			
Bituminous Wear Course	Ton	0.185			
Bituminous Non-Wear Course	Ton	0.532			
4” Concrete Sidewalk	SF	0.556			
Sodding	SY	1.33			
Mobilization					Note A
Contractor Staking					Note A
Traffic Control					Note A
				Total TCI Construction Cost	

Rural Residential Table

Description	Unit/LF	Quantity/LF	Tot Quan.	Unit Price	Total Price
Common Excavation	CY	0.555			
Aggregate Base Class 5	CY	0..555			
B618 Curb & Gutter	LF	0			
Bituminous Wear Course	Ton	0.28			
Bituminous Non-Wear Course	Ton	0.35			
4” Concrete Sidewalk	SF	0			
Sodding	SY	.67			
Mobilization					Note A
Contractor Staking					Note A
Traffic Control					Note A
				Total TCI Construction Cost	

Note A: These construction item costs will be based on a percentage of TCI Construction Cost to Total Construction Cost.

Total Quantity is calculated by multiplying the established Quantity/LF by the total length of project measured from centerline of beginning intersection to centerline of ending intersection.

Unit Price for feasibility report calculations will be based on opinions of unit price. Final calculation of assessments will be based on Actual Bid unit prices.

The number of front feet assigned to each property shall be in accordance with Section III., paragraph P.

APPENDIX B

A. DEFERRAL OF ASSESSMENTS

Straight Deferrals will be granted under the following criteria:

- The assessed property would need to be zoned residential and classified as homestead. Under the straight deferral the property would need to be split creating two parcels with one of the parcels being undeveloped.
- The public improvement would need to be classified as “New Construction” under the current City assessment policy.
- The straight Deferral would be the total amount of the levied assessment on the undeveloped parcel for a maximum deferral length of five years.

The straight Deferral of Assessments on undeveloped property will be determined utilizing the Average Residential Parcel Assessment (ARPA) as a threshold for allowing the deferral. That is, if the total assessment of the developed and undeveloped property is greater than the ARPA, than the undeveloped parcel would be eligible for a deferral. Further defining of ARPA follows.

B. BASIS OF AVERAGE RESIDENTIAL PARCEL ASSESSMENT (ARPA)

The Average Residential Parcel Assessment (ARPA) calculation will be based on the average size of a residential, homesteaded parcel, within the corporate city limits prior to the execution of the Orderly Annexation Agreement between the City of Grand Rapids and the Township of Grand Rapids. Utilizing the County parcel information within the City GIS system reveals the following average residential parcel dimension:

- Total area within boundary = 748.7 acres
- Total quantity of each = 2.176 parcels
- Average acres per parcel = 0.344 acres/parcel
- Converted to sq. feet = 14,985 square feet

Assessments based on length are typically the shorter of the two lot dimensions. In determining the average residential lot dimensions based on the average residential square footage, the minimum lot dimensions required by the zoning ordinance are averaged as follows:

Zoning	Minimum Lot Dimensions	Ratio of Length to Width
R-1	70’ X 120’	1 to 1.71
R-2	50’ X 140’	1 to 2.80
	Average	1 to 2.25

Utilizing the following algebraic equation and solving for X results in:

$$1X * 2.25X = 14{,}985 \text{ sq. feet}$$
$$X = 81.61 \text{ feet}$$

This dimension, 81.61 feet, will be the dimension for calculating average residential parcel assessments (ARPA). The ARPA will be calculated using the actual project assessment rates on a per project basis.

C. GOVERNING CRITERIA ON STRAIGHT DEFERRALS

- **Minimum Limits**
  The total assessment of the developed and undeveloped parcel must exceed the ARPA in order to qualify for a deferral on the undeveloped parcel.

- **Termination**
  Deferrals on undeveloped parcels will be terminated when one of the following occurs:

  The undeveloped parcel is sold, at which time the entire deferred assessment is due.

  The undeveloped parcel is divided, at which time the entire deferred assessment is due.

  The parcel loses its homestead status, at which time the entire deferred assessment is due.

- **Length**
  The length of a Deferral will be limited to the first five years of the levied assessment. Payment of Interest on the deferred assessment may or may not be paid on a yearly basis during the period of deferral.

- **Payback**
  Payback schedule for the Deferral will occur under the following schedules:

  Deferred assessments from $1,000 to $5,000 equal 10-year payback.

  Deferred assessments greater than $5,000 will be 10-years plus one additional year per $1,000 over $5,000 not to exceed a 15-year payback.

  All paybacks of Deferrals begin in year six (6).

APPENDIX C

THIS APPENDIX REFERENCES MINNESOTA APPELLATE COURT DECISIONS REGARDING CHAPTER 429. LOCAL IMPROVEMENTS, SPECIAL ASSESSMENTS, SPECIFICALLY 429.051. Apportionment of cost.

IT IS DESIGNED TO BE USED AS A GUIDE FOR THE GRAND RAIPDS CITY COUNCIL, PLANNING AND ZONING DEPARTMENT, ENGINEERING DEPARTMENT, COMMUNITY DEVELOPMENT, AS WELL AS THE PUBLIC AT LARGE.

M.S. 429.051. Apportionment of cost

Currentness

The cost of any improvement, or any part thereof, may be assessed upon property benefited by the improvement, based upon the benefits received, whether or not the property abuts on the improvement and whether or not any part of the cost of the improvement is paid from the county state-aid highway fund, the municipal state-aid street fund, or the trunk highway fund. The area assessed may be less than but may not exceed the area proposed to be assessed as stated in the notice of hearing on the improvement, except as provided below. The municipality may pay such portion of the cost of the improvement as the council may determine from general ad valorem tax levies or from other revenues or funds of the municipality available for the purpose. The municipality may subsequently reimburse itself for all or any of the portion of the cost of a water, storm sewer, or sanitary sewer improvement so paid by levying additional assessments upon any properties abutting on but not previously assessed for the improvement, on notice and hearing as provided for the assessments initially made. To the extent that such an improvement benefits nonabutting properties which may be served by the improvement when one or more later extensions or improvements are made but which are not initially assessed therefor, the municipality may also reimburse itself by adding all or any of the portion of the cost so paid to the assessments levied for any of such later extensions or improvements, provided that notice that such additional amount will be assessed is included in the notice of hearing on the making of such extensions or improvements. The additional assessments herein authorized may be made whether or not the properties assessed were included in the area described in the notice of hearing on the making of the original improvement.

In any city of the fourth class electing to proceed under a home rule charter as provided in this chapter, which charter provides for a board of water commissioners and authorizes such board to assess a water frontage tax to defray the cost of construction of water mains, such board may assess the tax based upon the benefits received and without regard to any charter limitation on the amount that may be assessed for each lineal foot of property abutting on the water main. The water frontage tax shall be imposed according to the procedure and, except as herein provided, subject to the limitations of the charter of the city.

Credits

Laws 1953, c. 398, § 5. Amended by Laws 1955, c. 842, § 1; Laws 1957, c. 40, § 1; Laws 1959, c. 490, § 1; Laws 1961, c. 286, § 1.

Notes of Decisions (144)

M. S. A. § 429.051, MN ST § 429.051

Current with all legislation from the 2021 Regular Session and 1st Special Session. The statutes are subject to change as determined by the Minnesota Revisor of Statutes. (These changes will be incorporated later this year.)

Notes Of Decisions (144)

State funds

Under this section covering assessments for improvements, municipality could levy assessment against property benefitted by improvement based upon benefits received even though municipality was reimbursed for all or part of improvement from county state aid highway fund, municipal state aid street fund, or trunk highway fund. In re Mackubin St., 1968, 279 Minn. 193, 155 N.W.2d 905 . Municipal Corporations 436.1

City of fourth class could properly levy special assessment of property benefited by the improvement to a county state-aid street based upon the special benefits received by the property to be assessed even though the cost of the improvement had been paid for out of county state-aid funds. Op.Atty.Gen., 59A-4, March 21, 1962.

Municipal funds

Village council could expend money available for the purpose of the general reserve fund for the payment of the proportionate share of a storm sewer project which would have been, if possible, assessed to benefited owners outside the village limits. Op.Atty.Gen., 408-C, May 27, 1961.

If village should determine that one-half of cost of installing a water and sewage system in new residential area should be paid from funds of municipality and that abutting property owners should be assessed the remaining one-half of the cost, procedure set out in this and following sections should be followed. Op.Atty.Gen., 387-G-1, April 12, 1955.

A city may pay for proportionate costs of improvements as determined by city council. Op.Atty.Gen., 387-B-10, June 29, 1954.

City could pay for water and sewer improvements out of general funds, where no assessments had been made. Op.Atty.Gen., 624-D-11, April 19, 1954.

Village council cannot make improvements to water and sewer systems of village and charge the entire cost thereof to general taxation without making any special assessment. Op.Atty.Gen., 624-D-11, 387-G-4, June 19, 1953.

Under § 429.09 (repealed; see, now, this section), village could pay part of cost of paving three blocks of its main street as council might determine, and leave balance to be paid by assessment against abutting property owners of street. Op.Atty.Gen., 396-G-10, Jan. 25, 1950.

Under § 429.09 (repealed; see, now, this section), if an interceptor sewer which was to be constructed constituted an area between street intersections or between street and alley intersections cost of any portion of such sewer could be paid by municipality. Op.Atty.Gen., 387-G-5, Aug. 26, 1946.

City council has authority to install storm sewers and defray costs thereof by general tax levy rather than by special assessment. Op.Atty.Gen.1942, No. 178, p. 264.

Discretion of municipality

As long as the city provides a reasonable analysis as to how it exercised its discretion in allocating the benefits of public improvement for assessment purposes, that determination is for the city, not the courts. David E. McNally Development Corp. v. City of Winona, App.2004, 686 N.W.2d 553 . Municipal Corporations 495

In determining the reach of the benefit from the improvement for assessment purposes, a municipality has substantial discretion as long as its decision is fair. David E. McNally Development Corp. v. City of Winona, App.2004, 686 N.W.2d 553 . Municipal Corporations 439

Village could provide the cost of storm sewers installed upon county state aid highway by the sale of bonds pursuant to Chapter 475 without the necessity of securing payments through special assessment of abutting property. Op.Atty.Gen., 387g-1, May 16, 1967.

In making a special assessment for the installation of a new sidewalk or the repair of an old sidewalk, a village, acting within the limits of its statutory authority, has discretion to determine the method and amount by which the benefited property be assessed, and it would not be required that the amount of the assessment correspond exactly to the amount of the special benefit obtained. Op.Atty.Gen., 480a, May 25, 1965.

A village council would not have the authority under this section to levy a special assessment only against those tracts upon which residential or commercial buildings were located and not to levy upon vacant lots which were also benefited by an improvement. Op.Atty.Gen., 471-f, July 2, 1962.

City of the second class could not legally enter into agreement whereby property owner to be benefited by postponed improvement was to be repaid by city at a future date, if and when area was developed, for advances made by the owner to the city to pay the cost of improvement. Op.Atty.Gen., 387-B, Aug. 1, 1955.

Village council had discretionary power to determine that one-half of cost of installing water and sewage system in new residential area be paid from certain funds of village, and to assess abutting property owners for the remaining one-half of the cost. Op.Atty.Gen., 387-G-1, April 12, 1955.

Cooperative agreement

Replacement cost necessary for continued legal use of property impacts market value of property accordingly, for purpose of determining amount which city may assess against property upon which special benefit has been conferred by improvement. Lunderberg v. City of St. Peter, App.1986, 398 N.W.2d 579 , review granted, appeal dismissed. Municipal Corporations 467

Village entering into cooperative agreement with Commissioner of Highways for construction of service road, and agreeing to pay part of its cost, may assess a portion of such cost against benefited abutting property. Op.Atty.Gen., 396g-15, July 12, 1957.

Costs of proposed improvement under cooperative agreement with county may be assessed against property benefited. Op.Atty.Gen., 1952, No. 138, p. 262.

Annexation

Pursuant to this section, city could levy special assessment against parcels of land not within the corporate boundaries as of the time of an improvement project, but which by annexation order subsequently became a part of the city, and it would make no difference as to the validity of the assessment that the annexation order was subsequently nullified. Op.Atty.Gen., 387-b-1, June 7, 1967.

A village could assess any part of the cost of acquisition of water and sewer mains against lands in an annexed area where the mains were located by following the procedure prescribed by chapter 429. Op.Atty.Gen., 624d-10, April 5, 1965.

City could not annex territory on condition that property annexed should be assessed for benefits resulting from improvements theretofore made. Op.Atty.Gen., 484-a-1, Dec. 19, 1955.

Improvements

Improvements - In general

Under the special-benefit standard, a city may impose assessments for local improvements if: (1) the property

receives a special benefit from the improvement; (2) the assessment is uniform upon the same class of property; and (3) the assessment does not exceed the special benefit. 110 Wyman, LLC v. City of Minneapolis, App.2015, 861 N.W.2d 358 , review denied. Municipal Corporations 438

Although the law does not define how property is classified for assessment purposes, the municipality has an obligation to evaluate and determine the reach of the benefit from the improvement. David E. McNally Development Corp. v. City of Winona, App.2004, 686 N.W.2d 553 . Municipal Corporations 439

Sewer project of the metropolitan waste control commission, designed to carry village's sewage out of village to a new treatment plant, was an "improvement" within statute authorizing local government unit to levy special assessments to pay for local improvements. In re Village of Burnsville, 1976, 310 Minn. 32, 245 N.W.2d 445 . Municipal Corporations 417(1)

Notwithstanding fact that general public may benefit from an improvement, if certain property is specially benefited thereby, the improvement is "local" and the property can be assessed in an amount not exceeding the special benefits conferred. In re Village of Burnsville, 1976, 310 Minn. 32, 245 N.W.2d 445 . Municipal Corporations 438

Work done upon city streets by the county would not be an "improvement" within the purview of c. 429 and, thus, abutting property owners could not be assessed under the terms of this section. Op.Atty.Gen., 59a-4, Nov. 25, 1959.

Improvements - Street improvements

Even if existing roadway adequately served property owner's property, municipality would not be precluded from levying special assessment in connection with widened roadway; widening of road improved access to interstate highway and another road, thereby conferring special benefit on property. EHW Properties v. City of Eagan, App.1993, 503 N.W.2d 135 . Municipal Corporations 439

It is common knowledge that paving necessarily requires drainage, the cost of which may be properly included in the general expense for improvement. In re Meyer, 1924, 158 Minn. 433, 197 N.W. 970 , on rehearing 158 Minn. 433, 199 N.W. 746 . Municipal Corporations 460

Where contract for oiling streets as local improvement had been awarded and work done thereunder, village council had no authority to include in assessment therefor anticipated costs or successive oilings in future years. Op.Atty.Gen., 396-G-7, 408-C, Sept. 1, 1953.

If highway was trunk highway, commissioner of highways could not be compelled to construct curbs thereon, but if highway was village street or part upon which curb would be located was village street, village had authority to build curbs thereon and assess cost upon property benefited by improvement. Op.Atty.Gen., 396-E, Sept. 14, 1951.

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Improvements - Water or sanitary sewer systems

City's determination that only the subdivision immediately benefited from water and sewer line improvements, so that only subdivision lots were included in assessment, did not comply with the requirements of its ordinance that it allocate the cost of improvement to the gross developable area, where all of the expert testimony indicated that gross developable area extended beyond subdivision. David E. McNally Development Corp. v. City of Winona, App.2004, 686 N.W.2d 553 . Municipal Corporations 439

City had authority to pass on to users of municipal sewer facilities metropolitan waste control commission sewer availability charges paid by city, recouping its costs by imposing use, availability and/or connection charges, by means of special assessments, or by taxation. Crown Cork & Seal Co., Inc. v. City of Lakeville, 1981, 313 N.W.2d 196 . Municipal Corporations 712(7)

A village could assess any part of the cost of acquisition of water and sewer mains against lands in an annexed area where the mains were located by following the procedure prescribed by chapter 429. Op.Atty.Gen., 624d-10, April 5, 1965.

A city could especially assess property benefited by water distribution and storage system which qualified as a local improvement under § 429.021(5). Op.Atty.Gen., 59b-13, July 18, 1962.

A storm sewer is a "water or sanitary sewer improvement" within meaning of provision of this section that municipality may subsequently reimburse itself for all or any of the portion of the cost of a "water or sanitary sewer improvement" by levying additional assessments on any properties abutting on but not previously assessed for the improvement. Op.Atty.Gen., 408-C, April 27, 1957.

City of the fourth class has power to levy special assessments for construction of water mains. Op.Atty.Gen., 624-D-10, Aug. 2, 1954.

Village could lay water main across a railroad crossing with or without consent of railroad, where road which crossed tracks was a continuation of street in village and had been used by public as a public road or highway since 1872, and if railroad property was benefited by improvement, it could be assessed therefor. Op.Atty.Gen., 1950, No. 172, p. 308.

Sewer systems, improvements

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Special assessments

Special assessments - In general

Under “reasonably related” standard in statute authorizing city’s governing body to create a special service district by ordinance, propriety of service charges imposed was to be measured by charges’ proportion to city’s cost of providing such services, rather than by special-benefit standard, which required that the amount of charges could not exceed the benefit to the property assessed. 110 Wyman, LLC v. City of Minneapolis, App.2015, 861 N.W.2d 358 , review denied. Municipal Corporations 466

Statutorily-imposed “reasonably related” special services standard, rather than common law special-benefit standard, applied to landowners’ challenge to charges imposed on property owners in special service district in city’s downtown, for special services provided; services provided, including security, marketing and promotion, graffiti removal, landscaping, and administrative services, were too difficult to measure in terms of benefit to the properties served, as required by special-benefit standard. 110 Wyman, LLC v. City of Minneapolis, App.2015, 861 N.W.2d 358 , review denied. Municipal Corporations 466

For purposes of requirement that special assessments collected under a city’s taxing power not exceed special benefits, “special benefits” should be measured by considering the increase in the market value of the property attributable to the improvement; under this special-benefit standard, (1) the land must receive a special benefit from the improvement being constructed, (2) the assessment must be uniform upon the same class of property, and (3) the assessment may not exceed the special benefit. American Bank of St. Paul v. City of Minneapolis, App.2011, 802 N.W.2d 781 . Municipal Corporations 438

Cities are statutorily authorized to collect assessments to defray the cost of regulatory services. American Bank of St. Paul v. City of Minneapolis, App.2011, 802 N.W.2d 781 . Municipal Corporations 412

City’s special assessment for street improvements, which employed a front-footage method based on average cost of projects from prior three-year period, failed to approximate a market analysis, was completely unrelated to the costs of construction of a particular improvement in a particular year, and, thus, was invalid on its face. Bisbee v. City of Fairmont, App.1999, 593 N.W.2d 714 . Municipal Corporations 469(1)

Limitations on a municipality’s power of special assessment are: (1) the land must receive a special benefit from the improvement being constructed; (2) assessment must be uniform upon the same class of property; and (3) assessment may not exceed the special benefit. Bisbee v. City of Fairmont, App.1999, 593 N.W.2d 714 . Municipal Corporations 407(2) ; Municipal Corporations 437 ; Municipal Corporations 466 ; Municipal Corporations 472

Introduction of the municipality’s assessment roll generally constitutes prima facie proof that the assessment does not exceed special benefit; however, an assessment is void on its face if it fails to even approximate a market-value analysis. Bisbee v. City of Fairmont, App.1999, 593 N.W.2d 714 . Municipal Corporations 466 ; Municipal Corporations 513(7)

Front-footage method of calculating assessments for street improvement projects based on costs of street improvement projects from previous years is arbitrary and prima facie invalid. Bisbee v. City of Fairmont, App.1999, 593 N.W.2d 714 . Municipal Corporations 469(1)

Municipality may levy special assessment when following conditions are satisfied: (a) land must receive special benefit from improvement being constructed; (b) assessment must be uniform upon same class of property; and (c) assessment may not exceed special benefit. EHW Properties v. City of Eagan, App.1993, 503 N.W.2d 135 . Municipal Corporations 407(2) ; Municipal Corporations 437 ; Municipal Corporations 466

This section authorizing municipality to defer assessment of previous special improvement costs until assessment is made for subsequent extension or improvement is not limited to property within municipality’s jurisdiction at time of original improvement. Blankenburg v. City of Northfield, App.1990, 462 N.W.2d 417 . Municipal Corporations 475

Test of validity of special assessment is whether improvement for which assessment was levied has increased market value of property against which assessment operates in at least the amount of the assessment. Continental Sales and Equipment v. Town of Stuntz, 1977, 257 N.W.2d 546 . Municipal Corporations 466

Notwithstanding regularity of tax assessment's adoption, its validity as to balance of benefits and charges remains open question, and assessment void on its face for failure even to approximate market value analysis cannot be made valid by regularity of its adoption. Continental Sales and Equipment v. Town of Stuntz, 1977, 257 N.W.2d 546 . Municipal Corporations 466

Special assessment for funding sanitary sewer project was invalid to extent that it consisted of lump sum based on taxpayer's present use of its property, at least where there was no attempt to demonstrate relationship between present use and market value of improvement. Continental Sales and Equipment v. Town of Stuntz, 1977, 257 N.W.2d 546 . Municipal Corporations 466

In order that valid special assessment be levied, land must receive special benefit from improvement being constructed, assessment must be uniform upon the same class of property, and assessment may not exceed the special benefit. Joint Independent School Dist. No. 287 (Suburban Hennepin County Area Vocational-Technical Schools) v. City of Brooklyn Park, 1977, 256 N.W.2d 512 . Municipal Corporations 407(2) ; Municipal Corporations 437 ; Municipal Corporations 439

The only proper test of the validity of an assessment is whether it exceeds the special benefits conferred; it makes no difference when the formula for assessment was adopted or whether it differentiates between land located in different areas. In re Village of Burnsville, 1976, 310 Minn. 32, 245 N.W.2d 445 . Municipal Corporations 466

In ascertaining special assessment which could be levied on vacant lots for extending city water and sewer service to such lots, value of private sewer and water system on lots could not be deducted from preimprovement value of lots for purposes of determining increase in market value due to special benefits conferred by such extension of city sewer and water service, though there was slight probability that city might close down private system and though it was asserted that city might be prevented from assessing costs of a new system if value of private systems were not deducted from preimprovement value. Carlson-Lang Realty Co. v. City of Windom, 1976, 307 Minn. 368, 240 N.W.2d 517 . Municipal Corporations 467

Assessment appeal statute provided the exclusive means by which development company could challenge the assessments levied by the city, which included special assessments for aerial mapping, drainage plan, and administration; such assessments were related to the costs of constructing, reconstructing, and maintaining the permitted improvements. Woodland Development Corp. v. City of Andover, App.2006, 2006 WL 1644039 , Unreported. Municipal Corporations 496.1

Properties abutting on trunk line sewer could be specially assessed in a single assessment computed both on area basis and lateral equivalent front foot basis. Op.Atty.Gen., 387b-1, Aug. 13, 1965.

While the cost of a sanitary trunk sewer could be assessed to the area benefited, the municipality making such an assessment could not in addition thereto assess a portion of the costs on a front foot lateral equivalent basis, but could make a charge for connection or hookup of the sewer in order to defray the cost of improvement. Op.Atty.Gen., 387-b-1, April 30, 1965.

Special assessments may not include interest on contract costs for period between determination of contract costs and actual assessments some years later. Op.Atty.Gen. 59a-4, April 12, 1961.

The fact that certain property within a village was agricultural would not prevent the council from specially assessing the land for local improvements regardless of whether the land had been platted or improved before the assessment. Op.Atty.Gen., 408c, Sept. 22, 1960.

County Auditor has no authority to divide special assessment which has been made in one sum against several

lots as a unit. Op.Atty.Gen., 408-C, June 7, 1957.

Special assessments can be used only to defray the cost of the improvement and cannot legally be utilized for general revenue-raising purposes. Op.Atty.Gen., 408-C, July 11, 1955.

Village could not, in addition to front footage assessment for water supply main, make further assessment for service connection for lead-in pipe from main to lot line. Op.Atty.Gen., 624-D-10, Aug. 6, 1954.

Village could assess benefits for part of cost of grading certain streets by applying bituminous surface and installing curb and gutter, and could pay balance out of general fund. Op.Atty.Gen., 396-G-7, July 14, 1950.

Village could assess part of increased cost of sewer construction due to encountering of rock against benefited realty and could pay balance of cost out of general fund. Op.Atty.Gen., 387-G-1, Nov. 25, 1949.

Apportionment, special assessments

Assessments on various properties must be roughly proportionate to benefits accruing to each as a result of the improvement. Anderson v. City of Bemidji, 1980, 295 N.W.2d 555 . Municipal Corporations 439

Present use of land, while a consideration, is not dispositive as to relative benefits from improvement. Anderson v. City of Bemidji, 1980, 295 N.W.2d 555 . Municipal Corporations 439

Testimony of city's expert witnesses that highest and best use for taxpayer's property was to subdivide it along its longer side, which testimony was largely if not totally unrefuted by taxpayer's witnesses, gave valid reasons for council's decision to assess the property on such basis, despite fact that no other lot in the area was assessed along its longer side; therefore, trial court erred in finding that the assessment was not uniform in relation to the assessment on lots of roughly the same size in the area. Anderson v. City of Bemidji, 1980, 295 N.W.2d 555 . Evidence 571(1)

Where experienced real estate appraiser determined that market value of joint independent school district's property increased by approximately $206,000 due to addition of sewer and water utilities and, in arriving at this figure, incorporated not only property's present use but also the possibility that the land would be used for other purposes in the future, lower court properly found that special assessment in amount of $206,000 did not exceed special benefits, despite district's real estate appraiser's testimony that market value of property was increased by approximately $62,000, a figure arrived at by incorporating only present use of property. Anderson v. City of Bemidji, 1980, 295 N.W.2d 555 .

In order to determine value of a special benefit for purposes of determining validity of special assessment for that benefit, taxing authority must consider what increase there has been in the market value of the land resulting from the improvement and the difference in market value should be calculated by determining what a willing buyer would pay a willing seller for the property before and then after, the improvement has been constructed. Anderson v. City of Bemidji, 1980, 295 N.W.2d 555 .

Assessments levied by city for sewer and water improvements were not invalid on theory that they were arbitrary and that city had improperly apportioned cost of improvements between plaintiffs' property and other property benefited by the improvements, where improvement was designed to be capable of future expansion, assessment of areas to which system was to be expanded in the future was deferred until time when those areas were connected to the system by additional improvements and amount deferred was credited against current assessments. Hartle v. City of Glencoe, 1975, 303 Minn. 262, 226 N.W.2d 914 . Municipal Corporations 466

There would be no statutory authority for a municipality to include amounts which would not be necessary to meet

the surplus requirements of § 475.61 as a separate item of cost in calculating special assessments, and the five percent surplus required by § 475.61 could not be raised by adding an amount to the cost of special assessments for the sole purpose of producing the surplus. Op.Atty.Gen., 36, July 21, 1967.

The placing of a maximum on the amount any one parcel may be assessed, where a larger assessment would be warranted as to certain parcels, would have the effect of disregarding the requirement that apportionment of the cost of improvement be upon the basis of benefit received, and would be improper. Op.Atty.Gen., 387-b-1, June 7, 1967.

Method of determining benefit for purposes of levying special assessments for storm sewer project whereby council used a formula which levied a higher amount per square foot for roof area than for yard on the basis that each parcel within the assessment district was considered for the amount of water runoff, and council assessed parcels zoned commercial but undeveloped in a higher bracket on the theory that when developed they would undoubtedly fall into that category, was reasonable and a valid method of determining special assessment. Op.Atty.Gen., 387b-1, March 13, 1967.

Where proposed municipal sewage treatment plant to be constructed by village would benefit not only school district property, but other property in village as well, assessments levied against each property were required to be proportionate to special benefits resulting to each property from the improvement, as distinguished from general benefits to the whole community, and village council had legislative function to determining whether school district was specially benefited and, if so, amount of assessment to be levied, and school board could not make that determination or voluntarily assume or contract to assume burden of paying a greater amount than amount of assessment levied against it or in excess of special benefits received. Op.Atty.Gen., 387-F-1 , Nov. 30, 1956.

Governing body of municipality is not justified in basing special assessments for local improvements on formulae designed to offer special inducements to particular categories of prospective users of the improvements in order to stimulate revenue therefrom, or to otherwise ignore, by whatever means, the rule of “special benefits.” Op.Atty.Gen., 408-C, July 11, 1955.

No method for apportionment of the cost of a local improvement by special assessment is valid if rule of special benefits is ignored. Op.Atty.Gen., 408-C, July 11, 1955.

In determining the amount of special street improvement assessments per front foot on land other than land forfeited to state for nonpayment of taxes, the frontage of the tax-forfeited land must be taken into consideration the same as if it were subject to the assessment, and a part of the cost corresponding with the benefits to the tax-forfeited lands must be borne by the village unless and until legislature provides for reimbursement. Op.Atty.Gen.1940, No. 294, p. 376.

Special assessments - Apportionment

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There would be no statutory authority for a municipality to include amounts which would not be necessary to meet the surplus requirements of § 475.61 as a separate item of cost in calculating special assessments, and the five percent surplus required by § 475.61 could not be raised by adding an amount to the cost of special assessments for the sole purpose of producing the surplus. Op.Atty.Gen., 36, July 21, 1967.

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In determining the amount of special street improvement assessments per front foot on land other than land forfeited to state for nonpayment of taxes, the frontage of the tax-forfeited land must be taken into consideration the same as if it were subject to the assessment, and a part of the cost corresponding with the benefits to the tax-forfeited lands must be borne by the village unless and until legislature provides for reimbursement. Op.Atty.Gen.1940, No. 294, p. 376.

Appraisal, special assessments

Appraisal method that determined the difference in land and profit before and after the public improvement project was admissible in a special-assessment appeal; methodology yielded fair approximations of both the before and after values of the property. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 502(2)

Appraisal for determining benefit to land should take into account any buildings on the property benefited by a special assessment and not merely look at the value of the bare land. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 466

Market-data approach based on comparable sales, the income-capitalization approach, the reproduction-cost, less depreciation, approach, and the development-cost approach are not exclusive methods for approximating the increase in market value resulting from a public improvement. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 467

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Deferred assessment, special assessments

Property owner’s due process rights were not violated by municipality’s inclusion of deferred costs in special

assessment where notices of feasibility and assessment hearings included statement outlining municipality's intent to assess deferred costs; thus, property owner had opportunity to object to extension of original improvement and to inclusion of deferred costs. Blankenburg v. City of Northfield, App.1990, 462 N.W.2d 417 . Constitutional Law 4061 ; Municipal Corporations 455

If assessment of property for improvement which does not serve property directly but which has benefited the property has been deferred until later time when improvement is extended to directly serve the property, city may recover for benefits not initially assessed by adding amount deferred to later assessment. Hartle v. City of Glencoe, 1975, 303 Minn. 262, 226 N.W.2d 914 . Municipal Corporations 458

Assessment of entire cost of trunk sewers against only those properties immediately taken into sewer system was invalid where assessment was made wholly without regard to fact that trunk sewer was designed to serve and, shortly after assessment, served nonassessed property within entire drainage district served by trunk. Quality Homes, Inc. v. Village of New Brighton, 1971, 289 Minn. 274, 183 N.W.2d 555 . Municipal Corporations 439

A municipality may not assess abutting properties for full cost of trunk sewer in event the municipality decides to defer assessment of nonabutting property until it is tied into the system. Quality Homes, Inc. v. Village of New Brighton, 1971, 289 Minn. 274, 183 N.W.2d 555 . Municipal Corporations 439

Once a city has completed a storm sewer improvement and determines to reimburse itself as provided in this section, for all or any portion of the costs of the improvement by levying additional assessments upon properties abutting on but not previously assessed, the city could proceed directly with the assessment procedure in Section 429.061 without the holding of another hearing on the original improvement pursuant to § 429.031. Op.Atty.Gen., 387-b-1, June 7, 1967.

A municipality could defer the levy of a special assessment as provided in this section in connection with types of improvement therein specified. Op.Atty.Gen., 387-b-1, June 7, 1967.

City could not levy special assessments against a portion of benefited parcel of land and defer the assessment against remainder of parcel until a future date. Op.Atty.Gen., 387b-1, Sept. 19, 1966.

Where majority of property owners residing in first area petitioned city to construct a system of storm sewers for the drainage of the area, and city desired to construct a storm sewer trunk line larger and deeper than was necessary for the drainage of the first area and to pay the additional cost for the increased size and depth of the trunk line sewer through the first area, so that in the future laterals could be extended into second area and third area, city could pay the additional cost for the increased size and depth of the trunk line sewer through the first area and later assess the additional cost against benefited property in the second and third areas to the extent that such property was specially benefited. Op.Atty.Gen., 408-C, April 27, 1957.

Special assessments - Deferred assessment

Property owner's due process rights were not violated by municipality's inclusion of deferred costs in special assessment where notices of feasibility and assessment hearings included statement outlining municipality's intent to assess deferred costs; thus, property owner had opportunity to object to extension of original improvement and to inclusion of deferred costs. Blankenburg v. City of Northfield, App.1990, 462 N.W.2d 417 . Constitutional Law 4061 ; Municipal Corporations 455

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Extra-territorial assessment, special assessments

There is no statutory authority for a village to assess property outside its municipal limits for benefits arising from sewer installation; however, under section 444.075 a municipality could obtain help in paying for facilities beyond its corporate limits by way of contract for use of the facilities with present and future users. Op.Atty.Gen., 624d-11, April 19, 1968.

Special assessments - Extra-territorial assessment

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Right-of-way, special assessments

City's right-of-way (ROW) assessment was "tax," rather than fee for services, even though many services provided addressed conditions that, if left unabated, would have become nuisances, and funds collected through ROW assessment were kept in segregated accounts used only to pay for right-of-way maintenance services, where city charter provided assessments were for "the cost of improvements as are of a local character," that "in no case shall the amounts assessed exceed the benefits to the property," and that one basis to appeal ROW assessment was that it "is in an amount in excess of the actual benefits to the property," city code provisions implementing ROW assessment system made repeated reference to property "benefited," city's policy resolution governing ROW assessments recited that "[t]he law requires that the properties assessed must receive a special benefit from the assessment," ROW assessment functioned as revenue measure, benefiting public in general, and each property owner paid annual assessment without regard to whether owner had violated any ordinance or

undertaken any activity requiring regulation. First Baptist Church of St. Paul v. City of St. Paul, 2016, 884 N.W.2d 355 . Municipal Corporations 405 ; Taxation 2002

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Farmland, special assessments

The fact that certain property within a village was agricultural would not prevent the council from specially assessing the land for local improvements regardless of whether the land had been platted or improved before the assessment. Op.Atty.Gen., 408c, Sept. 22, 1960.

Special assessments - Farmland

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Property benefited, special assessments

"Benefit received" from a public improvement, for purposes of statute allowing for apportionment of cost of public improvements based upon the benefits received, is the increase in market value of the benefited land. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 467

Increase in market value due to public improvement, for purposes of statute allowing for apportionment of cost of public improvements based upon the benefits received, is the difference between what a willing buyer would pay a willing seller for the property before the public improvement and after the improvement. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 467

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Road unit connection charge imposed on developers seeking building permits by city whose power to tax was created and limited by statute could not be upheld as valid special assessment, as road unit connection charge was not assessed on property. Country Joe, Inc. v. City of Eagan, App.1996, 548 N.W.2d 281 , review granted, affirmed 560 N.W.2d 681 . Zoning And Planning 1382(4)

Benefit from public improvements was not subject to reduction for fact that value of building was not affected by improvements where utility of building remained constant and benefit derived from improvements inured to land

which was obviously more valuable to developer which intended to develop medium density townhomes. Holden v. City of Eagan, App.1986, 393 N.W.2d 526 . Municipal Corporations 466

In action in which landowners appealed only from storm sewer special assessment, evidence that total assessment for three improvements, including storm sewer, did not exceed benefit to the property was insufficient to support finding that benefit to property was greater as result of storm sewer improvement absent evidence of effect that each separate improvement had on market value of the property. Special Assessment for Maplewood Public Project No. 78-10 by Oxford v. City of Maplewood, Ramsey County, App.1984, 358 N.W.2d 106 . Municipal Corporations 502(3)

A municipality cannot levy a special assessment that exceeds the special benefit which the property derives from the improvement giving rise to the assessment. Neighborhood Preservation Ass'n of Detroit Lakes v. City of Detroit Lakes, App.1984, 354 N.W.2d 74 . Municipal Corporations 439

Relative benefits from an improvement are calculated on the market value of the land before and after the improvement; market value may be calculated on the highest and best use of the land. Anderson v. City of Bemidji, 1980, 295 N.W.2d 555 . Municipal Corporations 439

Any special assessment which does not meet requirements that land receive a special benefit from improvement being constructed, that assessment be uniform on same class of property and that assessment not exceed the special benefit is an unconstitutional taking without compensation. Southview Country Club v. City of Inver Grove Heights, Dakota County, 1978, 263 N.W.2d 385 . Eminent Domain 2.4

Where existing water and sewer mains would meet needs of one presently undeveloped parcel were it to be developed to extent permitted by zoning laws, and other parcel, which if freely developable would clearly benefit from water main improvement and sewer main extension, was integral part of golf course and could not be developed without destroying function of approximately 90 additional acres owned by country club, country club did not derive special benefits from projects which gave rise to assessments and thus assessments levied by city against country club were erroneously affirmed. Southview Country Club v. City of Inver Grove Heights, Dakota County, 1978, 263 N.W.2d 385 . Municipal Corporations 438

City could have levied assessments for sewer and water improvements against any property benefited by the improvements even if the property was not immediately taken into the system. Hartle v. City of Glencoe, 1975, 303 Minn. 262, 226 N.W.2d 914 . Municipal Corporations 439

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Facts that largely vacant farmland was zoned as single-family residential and that city had no immediate plan for extending sewer service into area did not preclude assessing the land for indirect benefits from installation of sewer trunk line, where the area was of such nature that it would reasonably soon be developed for either residential or industrial use and all of it would require sewer service. American Oil Co. v. City of St. Cloud, 1973, 295 Minn. 428, 206 N.W.2d 31 . Municipal Corporations 424

With respect to determining whether assessment may be levied against property for establishment of sewer, test is whether improvement has increased the value of property against which assessment operates in at least amount of assessment and, if property is increased in value for any use to which land may be adapted, the assessment, so long as it does not exceed benefit to property, is properly levied. American Oil Co. v. City of St. Cloud, 1973, 295 Minn. 428, 206 N.W.2d 31 . Municipal Corporations 439

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An assessment for a special local improvement is not void because property involved is not benefited by the improvement, owing to its present particular use, as benefit is presumed to inure not to the present use, but to the property itself. Village of Edina v. Joseph, 1962, 264 Minn. 84, 119 N.W.2d 809 . Municipal Corporations 439

Although a special assessment can be made only to extent of special benefits and must be distributed in proportion to the benefits received, a special assessment does not need to correspond in exactness with the benefits received. Village of Edina v. Joseph, 1962, 264 Minn. 84, 119 N.W.2d 809 . Municipal Corporations 466

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Future benefits, special assessments

When determining what land receives a benefit, for assessment purposes, the market value may be calculated upon the best use of the land in the future, and present use, while a consideration, is not dispositive. David E. McNally Development Corp. v. City of Winona, App.2004, 686 N.W.2d 553 . Municipal Corporations 439

Special benefit which land must receive from improvement in order to be specially assessed is measured by increase in market value of land resulting from improvement; increase in market value is difference between what willing buyer would pay willing seller for property before improvement and then after municipality completes improvement. EHW Properties v. City of Eagan, App.1993, 503 N.W.2d 135 . Municipal Corporations 439

Fact that the property would receive some benefit in the future from sewer improvement although the future development of the property remained uncertain and the property was receiving no benefit at the present time, was too speculative to permit an assessment for the improvement; city is not justified in assessing a property owner for benefits which may not be received for 15 to 20 years, if at all. Matter of Village of Burnsville Assessments for Improvement No. 70TS-8 for Sanitary Sewer, 1979, 287 N.W.2d 375 . Municipal Corporations 437

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School district property, special assessments

Special assessments may be made against real estate of the school district specially benefited by improvement consisting of curb and gutter laying and street widening on the opposite side along which the school property was located providing that the assessment did not exceed the amount of special benefit to the school property. Op.Atty.Gen., 408-C, Oct. 1, 1956.

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Special assessments - State-owned land

If lands forfeited for nonpayment of taxes were owned by state at time of special street improvement assessments, no lien thereon was created by such assessments, and purchaser of the property was not required to pay assessments, and if assessment attached prior to the forfeiture of the property to the state, assessment should have been cancelled by the county auditor, under 282.01 et seq. Op.Atty.Gen.1940, No. 294, p. 376.

Real property owned by the state through forfeiture for nonpayment of taxes is not subject to subsequent special assessment for street improvements by village. Op.Atty.Gen.1940, No. 294, p. 376.

State-owned land, special assessments

If lands forfeited for nonpayment of taxes were owned by state at time of special street improvement assessments, no lien thereon was created by such assessments, and purchaser of the property was not required to pay assessments, and if assessment attached prior to the forfeiture of the property to the state, assessment should have been cancelled by the county auditor, under 282.01 et seq. Op.Atty.Gen.1940, No. 294, p. 376.

Real property owned by the state through forfeiture for nonpayment of taxes is not subject to subsequent special assessment for street improvements by village. Op.Atty.Gen.1940, No. 294, p. 376.

Special assessments - Sufficiency of evidence

Trial court's rejection of city's appraisal of benefit in favor of landowners' appraisal, for purposes of determining propriety of special assessment levied against landowners, was supported by evidence, including inadequacy in number and quality of comparables used by city appraiser, inconsistency in city appraiser's valuations for condemnation and benefit reports, and competency of landowners' testimony concerning increase in value of their lots. Dosedel v. City of Ham Lake, App.1987, 414 N.W.2d 751 . Municipal Corporations 502(3)

Testimony of taxpayer's professional real estate appraisers was sufficient to overcome city's prima facie case that assessment did not exceed the special benefit. Tri-State Land Co. v. City of Shoreview, 1980, 290 N.W.2d 775 . Municipal Corporations 502(3)

Evidence sustained determination that assessment for city and water improvements did not exceed benefits conferred upon the assessed property and did not constitute taking of property for public use without due process. Hartle v. City of Glencoe, 1975, 303 Minn. 262, 226 N.W.2d 914 . Municipal Corporations 502(3)

Sufficiency of evidence, special assessments

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Exemptions

Exemptions - In general

Const. Art. 9, § 1 (now, Art. 10, § 1), exempting public cemeteries from "taxation" did not exempt cemeteries from special assessments for local improvements. State v. Roselawn Cemetery Ass'n, 1961, 259 Minn. 479, 108 N.W.2d 305 . Municipal Corporations 434(4)

Property of public cemetery association was exempt from special assessment for construction of water main by reason of § 306.14 exempting property of any such cemetery association from all public taxes and assessments. State v. Roselawn Cemetery Ass'n, 1961, 259 Minn. 479, 108 N.W.2d 305 . Municipal Corporations 434(4)

Exemptions from special assessments for local improvement are not granted by the Constitution, and must be found, if at all, in statutory enactments. State v. Crystal Lake Cemetery Ass'n, 1923, 155 Minn. 187, 193 N.W. 170 . Municipal Corporations 434(1)

Though churches, church property and houses of worship are exempt from general taxation, they are not exempt from special assessment. Op.Atty.Gen., 408-C, Aug. 22, 1956.

City cannot assess property belonging to county to pay for sanitary sewer system. Op.Atty.Gen.1928, No. 10, p. 39.

Exemptions - Federal property

Post office building owned by federal government is exempt from special assessment for street improvement. Op.Atty.Gen., 408-C, Sept. 21, 1953.

Federal property, exemptions

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Reimbursement

A village may not require as a consideration for the vacation of a street that the property owner bordering a portion of the vacated street pay by special assessments for improvements that have already been put in; however, under this section the village could specially assess such added portion if it determined to reimburse itself for portions of the cost of an improvement paid by the village. Op.Atty.Gen., 396g-16, Sept. 9, 1965.

Municipality may subsequently reimburse itself by assessment against benefited properties not previously included in assessment for improvement. Op.Atty.Gen., 387f-1, Aug. 12, 1965.

This section authorizes assessment of parcels of land at the time when the parcel makes use of the facility thereby reimbursing municipality for expenditure made at the time of the improvement. Op.Atty.Gen., 408-C, Oct. 1, 1956.

Burden of proof

Special assessment by a municipality, constituting as it does an exercise of the legislative and executive functions of local government, is entitled to a presumption of validity. Bisbee v. City of Fairmont, App.1999, 593 N.W.2d 714 . Municipal Corporations 484(1)

In imposing special assessment, any method resulting in fair approximation of increase in market value for each benefited parcel may be used; method which on its face appears to be fair approximation will be presumed valid, with burden resting on objector to show its invalidity. Continental Sales and Equipment v. Town of Stuntz, 1977, 257 N.W.2d 546 . Municipal Corporations 466 ; Municipal Corporations 484(1)

When a special assessment is regularly made, it is presumed to be lawful and correct, and the burden of proof rests upon the objector to demonstrate its invalidity. Joint Independent School Dist. No. 287 (Suburban Hennepin County Area Vocational-Technical Schools) v. City of Brooklyn Park, 1977, 256 N.W.2d 512 . Municipal Corporations 484(1)

Levy of a special assessment is a legislative act which, when regularly made, is prima facie valid; presumption of validity may only be rebutted by the taxpayer on a clear showing that the assessment does not bear any reasonable relationship to the value of special benefits. Nyquist v. Town of Center, Crow Wing County, 1977, 312 Minn. 266, 251 N.W.2d 695 . Municipal Corporations 484(1)

Until proven to the contrary, city is presumed to have set special assessment legally; thus, introduction of assessment role into evidence constitutes prima facie proof that assessment does not exceed special benefits. Carlson-Lang Realty Co. v. City of Windom, 1976, 307 Minn. 368, 240 N.W.2d 517 . Municipal Corporations 513(7)

Presumption that city has set special assessments legally may be overcome by introducing competent evidence that assessment is greater than increase in market value of the properties due to the improvement. Carlson-Lang Realty Co. v. City of Windom, 1976, 307 Minn. 368, 240 N.W.2d 517 . Municipal Corporations 513(7)

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Admissibility of evidence

District court has broad discretion in ruling whether to admit an appraisal in a special assessment proceeding. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 502(2)

Reviewing court will not overturn district court's ruling on admissibility of an appraisal in a special assessment proceeding unless it is based on an erroneous interpretation of the law or it constitutes an abuse of discretion. Eagle Creek Townhomes, LLP v. City of Shakopee, App.2000, 614 N.W.2d 246 , review denied. Municipal Corporations 508(6)

Review

Determination of benefits and apportionment of assessments for local improvement project is a legislative function and if the question of benefits and apportionment is a matter on which reasonable men may differ, the determination by the legislative body or council must be sustained. Quality Homes, Inc. v. Village of New Brighton, 1971, 289 Minn. 274, 183 N.W.2d 555 . Municipal Corporations 484(2)