

## CITY OF PIPESTONE, MINNESOTA

**Adopted:**

**Revised:**

### ASSESSMENT POLICY

The purpose of this Assessment Policy is to establish a procedure for recovering and distributing the cost of public improvements such as streets, curb and gutter, sidewalk, water main and sewers. The City's intent is to assess a minimum of 20% of the project costs that are financed by bonds under statute 429.

Chapter 8 of the City Charter and Minnesota Statutes, section 429.021 give the City Council the authority to make any and every type of public improvement and to levy special assessments to pay all or any part of the cost of such improvements. The Charter also allows the City Council to adopt a comprehensive ordinance prescribing the procedures which are to be followed in making all local improvements and levying assessments for their construction. This policy is intended to serve such purpose.

The procedures used by the City Council of Pipestone for levying special assessments are those specified by Minnesota Statutes, Chapters 429 and 435. This policy shall serve as a guide for the current and future City Council, as well as for all persons concerned with assessments related to public improvements within the City. It is the intent and purpose of this policy to provide for and insure consistent, uniform, fair, and equitable treatment (insofar as it is practical, lawful, and possible) of all property owners with regard to the assessment of costs associated with public improvements within the City. While this policy shall serve as a guide for current and future City Councils, there may be exceptions to the policy or unique circumstances or situations which may require special consideration and discretion by the City Council, subject to applicable law. Nothing in the policy is intended to limit, or shall be construed as limiting, the City Council's authority under law to impose and collect special assessments.

1. **"Special Benefit" and "Uniformity"**. Special assessments are charges levied against real property for the costs of a public improvement that provides a "special benefit" to the assessed properties. Special benefit must be determined on a project-by-project basis, and on a parcel-by-parcel basis. The rate of a special assessment must be uniform and levied equally upon all property receiving special benefits. Assessment must be confined to property benefited, and the amount of the assessment shall not exceed the special benefit.
2. **Modifications**. The City Council reserves the right to vary from these policies where, in the sole discretion of the City Council, it is appropriate under the facts of the particular situation.
3. **Review and Modifications**. The City Council may, without notice, review and revise this policy.

#### 1. Project Initiation

Public improvements may be initiated by any of the following method:

- 1.1. **Council Initiated**. As part of its duties, there arise situations when the City Council, on its own initiative, will desire proposed improvements be considered. The procedure for organization and consideration is implemented by a member of the Council proposing a resolution referring the proposed improvement to the City Engineer for preliminary study and preparation of a

feasibility report.

- 1.2. **Staff Initiated.** It is an administrative responsibility to bring to the attention of the City Council needed or advisable public improvement.
- 1.3. **Petitioned Improvements.** Public improvements can be initiated by petition of the affected property owners. A petition must be signed by not less than 35% of the owners in frontage of the real property abutting on the streets named in the petition as the location of the improvement. Additional work outside of the scope of the project is to be arranged between the contractor and the property owner and is to be outside of the construction project. Work within the contract will be to contract specifications. If 100% of the owners sign the petition the City Council is able to utilize a streamlined approval process.
- 1.4. **Ordering the Project.** Voting Requirement. Depending on how a public improvement project is initiated, state law provides certain voting requirements, which are as follows:
  - (a) For projects which are initiated upon the filing of a petition of 35% or more of the abutting owners, a majority of the members of the City Council must vote to approve the resolution ordering the improvements.
  - (b) For projects which are initiated upon the filing of a petition of 100% of the abutting owners, the resolution approving the public improvement project and assessing the entire cost of the improvement to those properties may be adopted by a vote of a majority of the members of the City Council without a public hearing.
  - (c) For projects which are initiated by the City Council, 4/5 of the City Council must vote to approve the resolution ordering the improvements.

## 2. New Construction Classification and City Cost Participation

- 2.1. **New Construction.** A developer of a new subdivision or owner of an unimproved subdivision, lot, lots, or parcels has two alternatives in making improvements to the property. These options are Developer Installed Improvements and City Installed Improvements.
  - (a) **Developer Installed Improvements.** The City permits installation of public improvements by developer, and upon written acceptance, these become part of the municipal system. All improvements must be according to the City specifications as prepared by the City Engineer. No work shall commence until final plans and specifications have been reviewed and approved by the City Engineer. Plans and specifications will not be approved until the applicant has completed the following:
    - i. Made a cash deposit for 1.25 times the estimated cost of plan inspection review, staking and inspection, and all the City expenses expected to be incurred; and the developer has submitted a letter of credit or other form of security, in a form approved by the City Attorney, in the amount of 1.25 times the estimated cost of construction of the public improvements.
  - (b) **City Installed Improvements.** If a developer petitions for an improvement by June 1 prior to the year of construction, the City will include the improvement in the annual improvement program upon deposit by the developer with the City Treasurer an amount equal to 1.25 times the City's estimated cost for such improvements. The deposit shall be either in an escrow deposit or an indemnity bond, with sureties satisfactory to the City conditioned upon payment of all construction costs; including engineering, legal fees, and

other expenses incurred in making of such improvements.

- (c) **City Participation in New Construction.** The City is not obligated to participate in new development unless it directs the developer to oversize an improvement or install at an additional depth for purposes outside the new subdivision. In those instances, the City will only pay for the costs due to the oversizing and/or additional depth.

### 3. Assessment Methods

**General Statement.** State law provides different methods for assessing public improvements, which includes the total cost of all necessary construction work required to accomplish the improvement, plus all engineering, legal, administrative, financing, and other contingent costs, including the costs of any necessary land acquisition. The three methods are: (1) per lot; (2) adjusted front foot; and (3) area assessments. The feasibility report prepared for the proposed public improvement project shall recommend one of these methods, or a combination thereof, based upon which method would best reflect the respective benefits which will be received for the properties within the area to be assessed. Proper notification will be given of all public hearings per Statute 429.

**Methods.** The following methods of assessments, as described and defined below and as may be further defined in state law, are hereby established as the methods of assessment for the City. Regardless of the method used, all properties, including those owned by governmental agencies and other tax exempt entities, are included in the calculation and are subject to assessment as provided in this policy and under state law.

- (a) **Per Lot.** The “per lot” method of assessment shall be based on an equal assessment of all lots within the benefitted area. The “assessment per lot” shall be the quotient of the assessable costs, which are the project costs less the City’s contribution, divided by the total number of assessable lots or parcels benefitting from the public improvement. If all lots are of similar size and purpose, the “per lot” method may be used. If there are disproportionate lot sizes or a combination of residential, business and industrial uses, the frontage method may be used.
- (b) **Adjusted Front Foot.** The “adjusted front foot” method of assessment shall be based on the quotient of the assessable cost divided by the total frontage benefitting from the public improvement. For purposes of calculating the adjusted front footage, the City shall apply the following:
  - 1) The actual physical frontage of a benefitting property shall not be used to calculate the assessment for a particular parcel. Rather, an “adjusted front footage” shall be calculated for each parcel.
  - 2) The purpose of this method of assessment is to equalize the assessment calculations for lots of similar size, despite their physical shape (e.g., rectangle lots versus pie-shaped lots).
  - 3) **Rectangular Lots.** These lots are defined as those lots having less than a two-foot difference between the front and rear lot lines. The adjusted front footage for these lots is equal to the actual front footage of the lot. For rectangular lots whose frontage is greater than its depth, the odd-shaped lot method of calculation shall be used.
  - 4) **Odd-shaped Lots.** For odd-shaped lots, defined as those where there is more than a

two-foot difference between the rear and front lot lines, the adjusted front footage shall be the average width of all lots in the block in which the lot is located.

- 5) **Cul-De-Sac Lots.** The adjusted front footage shall be the length of the lot frontage as measured on a curve at the front building setback line.
  - 6) **Corner Lot Adjustments.** For street and trail assessments, the short side will be assessed the actual front footage. The long side will be assessed one-half the actual side footage or 75 feet, whichever is greater.
- (c) **Area.** The area method of assessment shall be based on the number of square feet or acres within the boundaries of the appropriate property lines of the areas benefitting from the project. The assessment rates (i.e., cost per square foot) shall be calculated by dividing the total assessable cost by the total assessable area. On large lots, the City Engineer may determine that only a portion of the lots receives the benefit and may select a lot depth for the calculations equal to the benefit received.

The following items shall not be included in area calculations: public right-of-way; natural waterways; swamps; lakes; and other wetlands designated by the Minnesota Department of Natural Resources or the City. The City Engineer will make a recommendation on the boundaries or parameters of the benefitted area in the feasibility report.

- 3.1. **Reconstruction.** Each infrastructure improvement has a design life. At some point in time, all improvements will have to be reconstructed to ensure reliability and manage maintenance costs. To assist and promote the upgrading of the aging infrastructure, the City Council may adopt a Capital Improvement Plan (CIP) showing potential improvements over the next 5 to 10-years. The purpose is to make replacements on a cost-effective time schedule rather than wait until the City is spending more on maintaining an adequate system than it would cost to replace it.
- 3.2. **Allocation of Costs.** The standard allocation and term of assessment for public improvements shall be based upon the type of improvement made, as set forth in the table below. The term of any assessment will generally not exceed the term of a bond's duration when a bond is issued to finance the project's costs. Any assessment that is less than \$100.00 shall be prepaid or shall be certified as the entire amount payable in one installment in the upcoming year. The City Council may, however, establish a shorter or longer term if it is determined to be in the best interest of the City. Costs to be assessed will generally be actual project costs.

Type of Improvement	Allocation of Cost (Property Owners/City)	Assessment Period
<b>Streets</b> (removal of curb and gutter, driveways, sidewalks or pavement/installation of concrete curb and gutter, driveways, sidewalks, base and pavement and bituminous mill and overlays)	30% / 70%  (New Construction and Reconstruction)	10 years
<b>Alleys</b>	100% / 0%  (New Construction and Reconstruction)	10 years

**3.3. Project Specific Standards.** Street assessments to be based on no more than a 36-foot wide street, regardless of the actual constructed street width.

In the event that a commercial, business, or industrial property requires a heavier street design (exp. truck route) through a residential zone to serve one or more businesses, the business(es) requiring the heavier design shall be assessed the difference between the residential design and the needed design strength for the length required to meet the need.

Curb and gutter and sidewalk may be petitioned for by individual property owners if not included in the project. The total assessment to the property owner petitioning the improvement shall cover 100 percent of the costs except that approach sidewalk to corner lots at street intersections and alley crossings shall be paid by the City.

Property owners that had replaced the sidewalk on their property within the last 15 years and can prove the sidewalk replacement (exp. right-of-way permit) will not be assessed for any cost of replacement of the sidewalk as part of the street construction project. This shall also apply to driveway aprons if expanded or replaced in the last 15 years.

- (a) Property owners may petition the City to improve alleys. The cost shall be assessed to cover 100 percent of the cost of the work. The Assessment to properties with indirect benefit (potential garage access) shall be 25 percent of the assessment rate for properties with direct benefit (garage access). Consider a subordinate service district (Jason to review language)
- (b) Maintenance costs of improved alleys shall be assessed 100 percent to the property owners on the same basis as the assessment of the alley improvement.

**3.4. Sanitary Sewer Main**

- (a) The total cost of removal and installation of sewer main shall be funded through sewer rates.
- (b) The cost of construction and reconstruction of sanitary sewer service lines from the main sanitary sewer to the property line shall also be funded through sewer rates. The service line from the sewer main may be stubbed to the property line of each buildable empty lot when a reconstruction project for the adjacent street is constructed.
- (c) The property owner will be responsible for compliance with the city's sewer service ordinance regarding the sewer service from the property line to the building. The property owner will bring their service line into compliance with the ordinance or agree to allow the city's contractor to complete the work. The cost of sewer service replacement from the property line to the building will be assessed 100 percent to the benefitted property owner if completed by the city's contractor.

### **3.5. Storm Sewer Main**

- (a) The cost of construction and reconstruction of storm sewers mains, leads, and catch basins/manholes will not be assessed, but will be paid for 100% through storm sewer utility fund or other sources of revenue.

### **3.6. Water Main**

- (a) The total cost of removal and installation of water main shall be funded through water rates.
- (b) The cost of construction and reconstruction of water service lines from the main to the property line shall also be funded through water rates. The service line from the watermain may be stubbed to the property line of each buildable empty lot when a reconstruction project for the adjacent street is constructed.
- (c) The property owner will be responsible for compliance with the lead and copper rules regarding the water service from the property line to the building. The property owner will bring the water service into compliance with the rules or agree to allow the city's contractor to complete the work. The cost of water service replacement from the property line to the building will be assessed 100 percent to the benefitted property owner if completed by the city's contractor.

## **4. Assessment Deferrals:**

- 4.1. **Deferral of Assessment.** Special assessments for senior citizens and property owners retired due to a permanent and total disability for whom it would be a hardship to make payments homeowners may be deferred, at the City Council's discretion, pursuant to Minnesota Statutes, sections 435.193(a)(1). Special assessments for persons who are members of the military ordered into active military service and for whom it would be a hardship to make payments may be deferred, at the City Council's discretion, pursuant to Minnesota Statutes, section 435.193(a)(2). In order to qualify for a hardship deferment, a property owner must meet the following conditions:

- (a) The property owner must apply for deferment no later than thirty (30) days after the adoption of the assessment roll by the City Council.
- (b) The property owner must be the owner of the property.
- (c) The property owner must occupy the property as their principle place of residence.
- (d) The property owner is 65 years of age or older, or the property owner's income from all sources shall not exceed the current "Very Low (50%) Income Limits" as provided in the area median income limits published annually by the United States Department of Housing and Urban Development.

In order to qualify for a disability and hardship deferment, a property owner must meet the hardship conditions set forth above and must also present documentation of income or of permanent and total disability status.

Notwithstanding the conditions cited above, the City shall have the discretion to determine a

hardship on the basis of exceptional and unusual circumstances in accordance with Minnesota Statutes, section 435.193(b). The City may require regular verification by the applicant of the continuation of the exceptional or unusual circumstances.

Any and all deferments terminate, and all amounts accumulated plus interest, shall become due upon the occurrence of any of the following events:

- (a) The death of the property owner and the spouse of the property owner is not eligible for deferment.
- (b) The sale, transfer or subdivision of the property or any part of the property;
- (c) The property loses its homestead status; or
- (d) The property owner is no longer determined to be in a hardship by the City.

4.2. **Undeveloped or Unimproved Property.** In the event an improvement affects undeveloped property that will not be utilizing the improvement, the property owner can request deferral of assessments with accumulated interest until such time as the property is developed or the improvement utilized. The payment of the first installment of any assessment levied upon unimproved property may be deferred until a designated future year, or until the platting of the property or the construction of improvements thereon, upon such terms and conditions and based upon such standards and criteria as may be provided by resolution of the Council. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall record with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. If the property is not developed within 20 years of the improvement the assessment shall be waived.

4.3. **Large Un-platted Lots.** For un-platted lots with a single-family home on them the assessment will be based on the actual street frontage up to a maximum of 150 feet. Any frontage greater than 150 feet will be eligible for deferment based on this policy for undeveloped property.

4.4. **Deferred Assessments of Green Acres Parcels.** Parcels certified as "Green Acres" by the County Assessor under Minnesota Statutes, section 273.111 may defer the assessment until such time as the property no longer meets the Green Acres requirements and no longer carries the designation. Any other deferral of assessments shall be allowed on a case-by-case basis to be approved by the City Council.

## 5. General Policy Provisions:

5.1. **Local Ordinance Requirement.** Construction of improvements in new additions and subdivisions to the City shall conform with the provisions of Chapter 72, 90, and 152 of the City

Ordinance and 100 percent of the cost shall be paid by the developer or property owners in accordance with Chapter 152. The City Council reserves the right to deviate from this policy for construction improvements in new development areas and to formulate Development Agreements with alternate payment methods.

- 5.2. **Assessment Cap.** If the City Council determines that the total assessment on a parcel or parcels on an improvement project as computed on the basis outlined herein results in a total assessment that does not reflect the benefit received by the property owner(s) for the improvements, the Council, at their sole discretion may adjust the assessment(s) to more closely represents the benefit received.
- 5.3. **Partial and Full Prepayments of Assessments.** After the City Council has adopted the assessment roll in a local improvement hearing, the owner of any property specially assessed may, prior to certification of the assessment to the County Auditor, pay to the City all or a portion of the assessment, but not less than \$100.00. The remaining unpaid balance (if any) shall be spread over the period of time established by the City Council for installment payment of the assessment. At any time after certification to the County Auditor, the owner of any property against which a special assessment has been levied may pay the full amount of the remaining assessment. Interest accrued prior to December 31 in the year in which such a prepayment is made shall also be paid with the prepayment. If full payment is made prior to certification to the County Auditor, interest through December 31 shall be waived.
- 5.4. **Tax Forfeited Properties.** Properties, which have been forfeited for non-payment of taxes, are subject to possible reassessment pursuant to Minnesota Statutes, section 429.071. The amount of special assessments subject to reassessment is determined by City Council resolution following sale by the County for 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 reassessing such property, the City will follow the same procedure as for an original assessment under Minnesota Statutes, section 429.061 including advance notice and public hearing.
- 5.5. **Tax Exempt Properties.** Government units including private cemeteries, churches, hospitals, schools, and similar institutions must pay special assessments. Railroads are also subject to special assessments. Government units subject to special assessments include state agencies, cities, school districts, and counties. However, federal government entities are exempt from special assessments.
- 5.6. **Reapportionment.** Special assessments that have been levied against a tract of land that is subsequently subdivided may be reapportioned pursuant to Minnesota Statutes, section 429.071 and any applicable City ordinances.
- 5.7. **Right to Appeal.** Pursuant to Minnesota Statutes, section 429.081, any person aggrieved, who is not precluded by failure to object prior to or at the assessment hearing, or whose failure to object is due to a reasonable cause, may appeal to the district court by serving a written notice upon the Mayor or clerk of the City within 30 days after the adoption of the assessment.
- 5.8. **Previous Policy.** The above policy statements supersede all previous assessment policies in effect upon the adoption of this Assessment Policy by the City Council. It may be used on new projects that have not been initiated or any project for which the final assessment role has not



been certified.