



Special Assessment Policy Manual

Revision Schedule	
1.0	Adopted March 13, 2023

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RESOLUTION 2023-0313-A

Resolution to Adopt Special Assessment Policy

WHEREAS, the City's Special Assessment Policy provides guidance and direction for the use of special assessments under the authority provided by Minnesota Statutes Annotated, Chapter 429, other related State statutes, and City Charter; and

WHEREAS, the City utilizes special assessments to fund public improvement projects and to collect unpaid penalties and charges; and

WHEREAS, the City's initial Special Assessment Policy was adopted in January, 1981 and subsequently revised in January, 2005 and May, 2012; and

WHEREAS, the policy establishes procedures for the scope of the most common public infrastructure projects but recognizes that the scope and/or magnitude of certain public improvements may require project-specific considerations that deviate from the policy; and

WHEREAS, the revised policy has been written to recognize City Council authority to deviate from policy and/or standard practices as may be appropriate; and

WHEREAS, the proposed revisions are intended to facilitate the continued use of special assessments as a funding tool, to equitably assign costs to benefiting properties, and to promote the long-term financial health of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the revised Special Assessment Policy is hereby adopted.

BE IT FURTHER RESOLVED that the City Manager is authorized to make minor, non-substantive grammatical, editorial, and clarifying edits as may be needed from time to time.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:



MICHELLE (SHELLY) A. CARLSON, Mayor

ATTEST:



CHRISTINA RUST, City Clerk

I. General

INTRODUCTION

Special assessments are a charge imposed on properties for a particular improvement that results in special benefits to the owners of those selected properties or an assessment for an unpaid penalty or abatement. Minnesota Statutes Annotated, Chapter 429 (“MSA 429”) grants cities the authority to use special assessments as a mechanism to finance a broad range of public improvements.

As it relates to public improvements, MSA 429 limits a special assessment to the amount that a property actually benefits from the improvement. No matter the method used to establish the amount of the assessment, the measure of benefit is the increase in the market value of the land resulting from the improvement. This can be a complex and sometimes controversial process. Public improvements may be constructed without using special assessments; however, cities have limited funding options and it is generally not economically feasible under current statutes to avoid special assessments altogether.

Although the special assessment policies and procedures are intended to provide for the equitable distribution of costs proportionate to the benefits accruing to each improved property, the methods, in and of themselves, do not guarantee against challenges to the special assessments derived from them.

METHODS AND STANDARDS OF ASSESSMENT FOR UNPAID PENALTIES AND ABATEMENTS

Special assessments for unpaid penalties and abatements will typically be assessed annually. Unpaid penalties and abatements may include, but are not limited to:

1. Snow, ice or rubbish removal from sidewalks
2. Weed elimination or grass cutting from private property
3. Removal or elimination of a public health or safety hazard from private property, including removal or disposal of garbage, junk, and debris
4. Trimming or removal of trees, shrubs, branches or other vegetation
5. Inspections and fees relating to the Moorhead rental registration program
6. Unpaid sanitation billings
7. Unpaid permit fees
8. Unpaid utility service charges

The notice and approval of these charges will follow State Statute and local regulations.

METHODS AND STANDARDS OF ASSESSMENT FOR PUBLIC IMPROVEMENTS

Management of special assessment projects is a complex process and includes extensive coordination between engineering, planning, administration, and finance functions. Consistency with comprehensive planning and equity in assessing benefited properties requires coordination among City of Moorhead (“City”) departments, external

agencies, and property owners in various phases of development. In many instances, engineering staff is engaged in the planning and design of the system and is mandated to supervise construction to assure conformity with the plans and specifications approved by the Moorhead City Council (“City Council”). The assessment process not only addresses the feasibility of physical construction but must also deal with affordability of the improvements.

The assessment process addresses:

1. Determination of the need, cost-effectiveness, feasibility and timing of the improvements,
2. Determination of the assessable share of the cost (the project benefits) based on the type of improvements, and
3. Equitable apportionment of the assessable cost among the benefited property owners.

This policy establishes direction and procedures for the scope of the most common public infrastructure projects. The scope and/or magnitude of certain improvements may require project-specific considerations that deviate from this policy. For those projects, compliance with applicable State Statutes will govern the special assessment process and will be documented in a Preliminary Engineering report or equivalent. Those projects are typically larger in scope (e.g. cost, benefiting area, etc.) and/or complexity and frequently involve significant sources of external (non-local) funding. Examples include, but are not limited to: bridges, railroad underpasses/overpasses, interstate interchanges, flood mitigation, etc.

II. Definitions

1. Abutting Property: A property directly adjacent to public improvements.
2. Access: Properties shall be considered to have access to public street improvements when an existing driveway enters onto the improvement, when the street classification would allow the property to be granted driveway access, and/or when parking is allowed on the street abutting the property. If a property is served by an alley or a private street, it is considered to have access to the street abutting the property or connecting to the alley or private street. Properties shall be considered to have access to street lighting and water utility improvements when they directly abut and are within 150 feet of the utility. Properties shall be considered to have access to sanitary sewer improvements when the sewer was designed to service that property and/or in accordance with City Code requirements. Properties shall be considered to have access to storm sewer utility improvements when they directly abut and/or drain to them.
3. Adjusted Area: An area of a benefiting property that has been modified by an adjustment factor to more accurately represent the true benefit that property receives from an improvement in comparison to other properties in the assessment area. The adjustment will be based on the improvement design criteria that are

applicable to that parcel as described in a Preliminary Engineering Report and/or as approved by the City Council. Design criteria that may be used to determine the adjustment factor include, but are not limited to, buildable area, lot area relative to frontage, trip generation, impervious surface area, water use and needed fire flow.

4. Adjusted Front Footage: A modified lineal front footage designed to compensate for atypical frontage of irregularly shaped lots and corner lots to make apportionment of assessments more equitable. The adjusted front footage may be greater than or less than the actual front footage.
5. Alley: A public or private right of way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street. A public alley is maintained by the City and eligible for public financing and special assessments. A private alley is not maintained by the City and is not eligible for public financing and special assessments.
6. Annexation Agreement: An agreement with a property owner to annex property pursuant to Minn. Stat. Ch. 414.
7. Assessable Cost: Those costs of public improvements that have been determined to be of special benefit to specific properties. Project costs eligible for assessment include all costs associated with the improvements, including but not limited to, land acquisition and appraisals, demolition (including hazard materials abatement), permitting costs, construction, testing, administration, engineering, legal, fiscal and other costs as determined by the City Council.
8. Assessable Footage: The assessable footage is the total adjusted front footage of all of the benefiting properties.
9. Assessable Unit: Adjusted front foot, square foot, acre, lot, unit or equivalent unit, parcel of land, or other uniform measure that is used to apportion the special assessment benefit of an improvement. Assessable unit is used interchangeably with assessment unit.
10. Assessment Rate: The assessment rate is determined by dividing the assessable cost of an improvement by the total number of assessment units such as the total adjusted front footage, area, number of lots, or number of parcels.
11. Assessment Unit: Adjusted front foot, square foot, acre, lot, unit or equivalent unit, parcel of land, or other uniform measure that is used to apportion the special assessment benefit of an improvement.
12. Benefit or Special Benefit: The increase in property market value as a result of a public improvement such as a street, sidewalk, curb and gutter, water main, sewer, park, or street landscaping.

13. Certified Special Assessment: A special assessment installment (principal and interest) that has been transmitted to the County to be paid with the property tax invoice during the next calendar year.
14. Deferment: The process of delaying the collection of a special assessment for public improvements for a property within the City limits with the intention of collecting the special assessment at a later date. The period for deferment will be specified in the resolution adopting the deferred assessment or be established by policy, but may not extend beyond thirty (30) years from City Council adoption of the assessment roll.
15. Deferred Special Assessment: a special assessment on property within City limits that has been adopted by the City Council with certification to the County for deferred collection. The resolution levying the special assessment may authorize a deferral for the following situations in accordance with this policy or terms established in the resolution adopting the special assessment:
 - a. Green Acres parcels in accordance with State Statute,
 - b. undeveloped property,
 - c. senior citizen, retired and disabled person, and military service in accordance with State Statute,
 - d. Developer-requested one-year deferral for new development, or
 - e. as stipulated in a Developers Agreement.
16. Developed Property: Property that has been platted or improved to serve a new or modified purpose. Recording of a plat or issuance of a building permit will serve to document improvements to a property and change the property status to developed, but improvements not requiring a building permit may also change the status of a property from undeveloped to developed.
17. Developer: An owner or owners of property developing residential, commercial, or industrial areas with infrastructure.
18. Developers Agreement: An agreement between the City and an owner or owners of a property looking to develop residential, commercial, or industrial areas with infrastructure.
19. Frontage Road: Local streets which are generally parallel and adjacent to high volume arterial streets and highways and provide access to abutting properties and separation from through traffic.
20. Front Footage: The distance measured along the right-of-way line that directly abuts an improvement, including Side-Lot Footage in excess of one hundred fifty (150) feet.
21. Green Acres Parcels: Parcels that have been certified to qualify under the Minnesota Agricultural Property Tax Law or Green Acres law (Minnesota Statutes Chapter 273.111 as amended).

22. Lot Definitions:

- a. Corner Lot: A lot located at a street or public alley intersection having both front and side-lot footage.
- b. Double Frontage Lot: A lot with access to two (2) separate non-intersecting or intersecting streets (not including private streets) but not a corner lot.
- c. Irregularly Shaped Lot: Those lots abutting curved streets, cul-de-sacs, or other lots where there is more than five (5) feet of difference in length between the front and back lot lines.
- d. Rectangular Lot: A lot with less than five (5) feet of difference in length between the front and back lot lines.
- e. Triple Frontage Lot: A lot with frontage on three (3) separate streets (not including private streets).

23. Pending Special Assessment: A special assessment for an improvement project that has been ordered by resolution of the City Council subsequent to a petition of a sufficient number of benefiting property owners (without Project Hearing) or subsequent to a Project Hearing with the improvement project completed but the assessment not yet considered at an Assessment Hearing, and therefore, not yet adopted by the City Council.

24. Petition: A formal, written request from a legal benefiting property owner requesting that a portion of the cost of an improvement be assessed to their property.

25. Postponed Special Assessment: A special assessment for an improvement project that benefits property *outside of City limits*. Postponed special assessments are subject to the provisions of State Statute and this policy. Postponed special assessments are not adopted by resolution of the City Council until the property is annexed into the City after which the special assessment will become a Deferred Special Assessment or adopted for collection in accordance with the provisions of State Statute and/or this policy.

26. Primary Assessment Rate: For street mill and overlay, rehabilitation, or reconstruction projects, the rate (dollars per adjusted front foot) used to compute the special assessment for properties that front on the local street to be improved or for properties that have access to a minor arterial or collector street to be improved. The Primary Assessment Rate is established annually by the City Council in the City's fee ordinance.

27. Private Street: A street serving as public vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned and maintained by one (1) or more private parties and is not eligible for public financing and special assessments.

28. Proposed Special Assessment: A special assessment for an improvement project that has been ordered by resolution of the City Council subsequent to a petition of a sufficient number of benefiting property owners (without a Project Hearing) or

subsequent to a Project Hearing with the improvement project not yet completed and the assessment not yet considered at an Assessment Hearing, and therefore, not yet adopted by the City Council.

21. Public Improvement: Capital improvements owned and maintained by the City providing a special benefit to properties, including but not limited to streets, sidewalks, curb, gutter, sanitary sewer systems, storm sewer systems, water treatment and distribution systems, and other municipal facilities including offices, shops, athletic facilities, and meeting places for cultural and sport events. New infrastructure generally refers to the construction of infrastructure where none currently exists, but may also refer to an incremental increase in function or capacity provided coincidentally with a rehabilitation or reconstruction project. Policy language for new infrastructure would apply to the cost associated with the incremental increase in function or capacity. Rehabilitation and reconstruction generally refer to in-kind replacement of function and/or capacity.
22. Secondary (or Area-wide) Assessment Rate: For street mill and overlay, rehabilitation, or reconstruction projects, the rate (dollars per equivalent lot) used to compute the special assessment for properties included within the special assessment district (benefiting area) for a collector or minor arterial street to recognize that these functionally classified streets benefit both abutting and non-abutting properties regardless of whether or not the properties have direct access to the street. Within the special assessment district, special assessments are apportioned to single family residential parcels on a per lot basis and to other properties on an equivalent lot basis determined by dividing the area of the parcel by the area of a typical single-family parcel within that district. The special assessment district boundaries are generally established as one-half the distance to the next minor arterial or collector street. The Secondary Assessment Rate is established annually by the City Council in the City's fee ordinance.
23. Side-Lot Footage: In the case of corner lots, the longest distance measured along the right-of-way shall be considered the side of the lot, regardless of the address or the direction that the house faces, or the driveway location.
24. Special Assessment: A legal process whereby the benefited property is charged for all or a portion of the cost of public improvements on the basis that the property derives a special benefit from the improvement.
25. Street: All public ways designed as means of access to the adjoining properties. Streets are classified into seven (7) groups:
 - a. Principal Arterial,
 - b. Minor Arterial,
 - c. Collector,
 - d. Local Collector,
 - e. Local Street,
 - f. Frontage Road, and
 - g. Public Alley.

26. Uncertified Special Assessment: A special assessment that has been adopted by the City Council with installments due and payable in future years beyond the next calendar year. Uncertified special assessments have not been transmitted to the County.

III. Methods of Assessment

The City has adopted the following three (3) methods for assessment of public improvements, although other methods could be considered if petitioned by the benefiting property owners and/or approved by the City Council:

1. Adjusted Front Footage Method

This method computes the assessable frontage for the project and for each property. The assessment rate for new improvements is obtained by dividing the total assessable cost by the assessable footage in an assessment district. The assessment rate for street mill and overlay, rehabilitation or reconstruction is established by the City Council as part of the fee ordinance. The assessment for each parcel is obtained by multiplying the assessment rate times the adjusted front footage for each property. If a project contains only rectangular lots, no irregular lots and no corner lots, the adjusted front footage shall be the same as the actual front footage. Adjusted front footage is determined as follows:

- a. For rectangular lots, the adjusted front footage shall be the same as the front footage at the right-of-way.
- b. For irregularly shaped lots, the adjusted front footage will typically be calculated as the width of the lot at a twenty-five (25) foot setback from the right-of-way line, although other methods may be used at the City's discretion (such as average lot width) if they are determined to be more equitable.
- c. For corner lots, regardless of the orientation of the house, the adjusted front footage is the shorter of the two (2) dimensions that abut City streets plus the side lot footage that is in excess of one hundred fifty (150) feet. For irregularly shaped corner lots, the adjusted front footage shall be the shorter of the two (2) abutting dimensions calculated in accordance with the policy for irregularly shaped lots. When the Adjusted Front Footage method is used, corner lots will not be assessed for improvement projects that abut only the side lot footage, unless the property has driveway access to BOTH streets, or unless otherwise approved by the City Council.
- d. Double or triple frontage lots may be assessed for improvements to any street the lots have access to in accordance with the definition of access. The adjusted front footage for each improvement will be determined in accordance with the above-described policies, whichever is appropriate.

2. *Adjusted Area Method*

This method computes cost on a square foot or acreage basis. The assessment rate is determined by dividing the total assessable cost by the total adjusted benefiting area. An adjustment factor reflecting land use may be applied to a parcel's benefiting area. Design criteria that may be used to determine the adjustment factor include, but are not limited to, buildable area, lot area relative to frontage, trip generation, impervious surface area, water use and needed fire flow. A parcel's assessment is then determined by multiplying the assessment rate times the benefiting area of the parcel. When the benefiting area includes both platted and unplatted properties, the gross benefiting area will be used to apportion the benefit among the properties. If all uses are substantially the same in a project area (single family, multi-family, commercial, or industrial), the assessment rate would typically be the same for all. Where there is variation in residential density or uses, the assessment rate may be adjusted to reflect the corresponding differences in benefit.

3. *Fixed Cost or Unit Cost Method*

This method computes the costs on the basis of individual assessment units. For example, sewer and water services, sidewalks, parks, street trees, and street lights may be considered and assessed as independent units. The total assessable cost is divided by the total number of assessment units to calculate the fixed cost. Assessment units could be determined on a per lot or per unit basis, or any combination thereof. For lots that may be further subdivided, the City may determine the number of assessable units based on equivalent units up to the number of lots that could be created from a particular parcel.

For street mill and overlay, rehabilitation, or reconstruction projects for a collector or minor arterial street, special assessments are apportioned to single family residential parcels on a per lot basis and to other properties on an equivalent lot basis determined by dividing the area of the parcel by the area of a typical single-family parcel within that district.

IV. Determination of Assessable Cost

1. Sanitary Sewer: Assessments shall be based on engineering design criteria. The assessable cost for sanitary sewer improvements shall be based on the level of service required by the property. In residential areas, one hundred percent (100%) of the cost of installing the sanitary sewer pipe size necessary to serve the proposed development shall be assessed to the abutting properties. The cost of pumping stations, force mains, and oversizing the sanitary sewer to provide service to properties that do not directly abut the improvements shall be proportionally assessed to the entire design service area. Where larger diameter sanitary sewers are required to serve commercial, industrial or institutional properties, the increased cost of installation shall be assessed to those properties. Where improvements are designed to serve an area beyond that of direct benefit, the City may postpone or defer that portion of the assessment.

2. Storm Drainage & Flood Mitigation: The assessment for the construction of storm drainage improvements (including ponds for treatment and/or detention or retention) and flood mitigation improvements shall be based on the level of service required by the property. The assessable cost shall be one hundred percent (100%) of the total project cost for new or expanded storm drainage improvements, and up to fifty percent (50%) for reconstruction, in accordance with Section V of this policy. Assessments may be based on the area method accounting for impervious surface if relatively uniform throughout the benefiting area and/or stormwater system modeling data that represents the level of service required and provided to individual properties. Where improvements are designed to serve an area beyond that of direct benefit, the City may postpone or defer the assessment. The City may partner with other agencies to levy assessments outside the City limits, if applicable.
3. Water System: The assessable cost for installing watermain improvements shall be based on the level of service required by the property. In residential areas, one hundred percent (100%) of the cost of the pipe size necessary to serve the proposed development shall be assessed to the benefiting properties. Where larger diameter watermains are required to serve commercial, industrial or institutional properties, the increased cost of watermain installation shall be assessed to those properties. Assessment for watermain replacement shall be at the discretion of the Moorhead Public Service Department. Where improvements are designed to serve an area beyond that of direct benefit, the City may postpone or defer the assessment.
4. Curb and Gutter: The assessable cost of curb and gutter installation shall be one hundred percent (100%) for new construction. The assessable cost for curb and gutter reconstruction will be in accordance with rates adopted in the City's annual fee ordinance. The benefited property is typically assessed on adjusted front footage or fixed cost (e.g. per lot).
5. Street Paving:
 - a. The assessable cost of new street paving projects shall be one hundred percent (100%) of the cost of constructing the street. The paving of new local streets shall be assessed to the abutting properties on the basis of adjusted front footage, fixed cost method, or as described in a Preliminary Engineering Report approved by the City Council. New minor arterial and collector streets shall be assessed to a wider area using the adjusted area method or on an adjusted front footage basis, with the benefiting area to be established in a Preliminary Engineering Report approved by the City Council. For new minor arterial and collector streets, the benefiting area will generally include all property within one-half the distance to the next existing or proposed arterial or collector street on either side of the proposed improvement. Parcels that have access to new collector and arterial streets may be assessed on the adjusted front footage basis for the cost of constructing a local street in addition to the adjusted area-wide assessment, as approved by the City Council.

- b. The maximum assessable cost of local street reconstruction, rehabilitation, or mill and overlay projects shall be in accordance with rates adopted in the City's annual fee ordinance. The remaining cost shall be a City cost. The reconstruction, rehabilitation, or mill and overlay of minor arterial and collector streets may be assessed using the adjusted area-wide or adjusted front footage method, or a combination of both. The adjusted front footage method will only be used for those properties that both abut and have direct access to limited access streets. The adjusted front footage assessment for minor arterial and collector streets shall be calculated the same as if it were a local street. For area-wide assessments for collector and arterial streets, the benefiting area will generally include all property within one-half the distance to the next existing or proposed arterial or collector street on either side of the proposed improvement. City Staff will evaluate the limits of the benefiting area for each minor arterial and collector street and recommend it in a Preliminary Engineering Report for City Council approval. The remaining cost shall be a City cost.
 - c. For multi-family, multi-use, commercial, industrial and institutional properties, the adjusted front footage or adjusted area may be multiplied by a factor representing the trip generation and/or traffic volume generated by these uses as compared to single family residential.
 - d. The assessable cost of frontage roads and public alleys will be the same as for local streets regardless of driveway connections.
 - e. For properties served by private streets, but within the benefiting area of public street improvements, the assessable cost for the public street improvements will be computed using the appropriate adjusted front footage and/or adjusted area-wide method applied to the benefiting area that includes the properties served by the private streets.
6. Sidewalk: The adjusted front footage or fixed cost method will typically be the basis for assessment. The assessable cost for sidewalk improvements shall be one hundred percent (100%) for new construction and up to fifty percent (50%) for reconstruction (in accordance with Section V.4.g of this policy) for sidewalk widths up to six (6) feet. The cost for width in excess of six (6) feet is paid by the City. In areas with new or existing sidewalk only on one side of the street, the assessable cost (and special assessment) is applied to assessable units on both sides of the street. The assessable cost may deviate from this policy as provided in a Preliminary Engineering Report approved by the City Council.
7. Driveway Approaches: The assessable cost for driveway approaches, both new and reconstructed, shall be one hundred percent (100%) except when the reconstruction is required by changes in street grade in which case the assessable cost shall be zero percent (0%). Reconstruction required by changes in street grade will be limited in scope to that necessary to accommodate the revised grade.

8. Sewer and Water Services: The assessable cost for the construction, replacement, or repair of sewer and water services shall be one hundred percent (100%) of the project cost. The fixed cost method will be used to calculate the assessment.

V. Determination of Assessment Rate & Terms

1. Sanitary Sewer Assessment Formula: Assessments to be levied against properties within the benefited area shall be distributed to those properties on the basis of the following provisions:
 - a. Assessment Rate: The assessment rate shall be equal to the “assessable cost” of the improvement divided by the total number of assessable units benefited by the improvement. Projects having an uneven distribution of benefits may be subdivided into separate improvements using multiple assessment methods and rates to apportion the assessments more equitably.
 - b. Assessable Units: The assessable units shall be determined as follows unless otherwise identified in a Preliminary Engineering Report approved by the City Council:
 - i. *Lateral Sewers*. The assessable unit shall be the adjusted front footage of the property. The fixed cost method may also be utilized when the properties served have uniform use (e.g. all single-family residential parcels).
 - ii. *Trunk Sewer and Lift Stations*. The assessable unit shall be the adjusted area (square foot or acre) of the benefited property, both present and future, as determined in the project design.
 - iii. *Sewer and Water Services*. The assessment shall be based on the number of sewer and/or water services installed for each individual property. This is the fixed cost method of assessment.
 - c. Assessable Cost: The assessable cost shall be determined in accordance with Section IV of this policy, except that repair or replacement projects, if they are to be assessed, may be modified based on the age of the existing sanitary sewer.
 - d. Assessment Formula, Repair or Replacement: The following table provides the cost split for repair and/or replacement of public sanitary sewers (trunk sewers, lateral sewers, and lift stations), excluding private services, if they are to be assessed.

Years After Initial Construction	City Share	Assessed Share
0-25 years	100%	0%
26-50 years	80%	20%
51-75 years	70%	30%
76-100 years	60%	40%
Over 100 years	50%	50%

- e. Length of Assessment: The assessment period for sanitary sewer-improvements is twenty-five (25) years for new construction and twenty (20) years for replacement projects. Sewer and water services may have an assessment period ranging from ten (10) to twenty (20) years.
2. Storm Sewer Assessment Formula: Assessments to be levied against properties within the benefited area shall be distributed to those properties on the basis of the following provisions:
- a. Assessment Rate: The assessment rate shall be equal to the “assessable cost” of the improvement divided by the total number of assessable units benefited by the improvement. Projects having an uneven distribution of benefits may be subdivided into separate improvements using multiple assessment methods and rates to apportion the assessments more equitably.
- b. Assessable Units: The assessable unit, unless otherwise identified in a Preliminary Engineering Report approved by the City Council, shall be the adjusted area (square foot or acre) of the benefited properties, both present and future, as determined in the project design.
- c. Assessable Cost: The assessable cost shall be determined in accordance with Section IV of this policy, except that repair or replacement projects may be modified based on the age of the existing storm sewer.
- d. Assessment Formula, Repair or Replacement: The cost split for repair and/or replacement of storm sewers, lift stations, and miscellaneous drainage improvements, if they are to be assessed, will be assessed in the same manner as sanitary sewer replacement, as shown in the table in Section V.1.d.
- e. Length of Assessment: The assessment period for storm sewers, lift stations, and miscellaneous drainage improvements is twenty-five (25) years for new construction and twenty (20) years for replacement projects.

3. Driveway Assessment Formula: Assessments to be levied against properties within the benefited area shall be distributed to those properties on the basis of the following provisions:
 - a. Assessment Rate: The assessment rate for each individual property shall be equal to the “assessable cost” of the project divided by the total number of assessable units benefited by the improvement.
 - b. Assessable Units: The assessable unit, unless otherwise identified in a Preliminary Engineering Report approved by the City Council, shall be the adjusted front footage of the benefited properties. The size and design standard of individual driveways determines the assessment for that property.
 - c. Assessable Cost: The assessable cost shall be determined in accordance with Section IV of this policy.
 - d. Length of Assessment: The assessment period for driveways is twenty-five (25) years for new construction and ten (10) to twenty (20) years for reconstruction.
4. Street Pavement, Curb, Gutter and Sidewalk Assessment Formula: Assessments to be levied against properties within the benefited area shall be distributed to those properties on the basis of the following provisions:
 - a. New Local Street Construction: The assessment rate for the construction of new local streets, including frontage roads and public alleys, shall be equal to the assessable cost of the improvement divided by the total adjusted front footage (both existing and future) benefited by the improvement or as identified in the Preliminary Engineering Report approved by the City Council.
 - b. Local Street Reconstruction/Rehabilitation: The assessment rate for reconstruction, rehabilitation, and mill and overlay of local streets, including frontage roads and public alleys, shall be the rate established in the City’s annual fee ordinance.
 - c. New Collector & Arterial Street Construction: The assessment rate for the construction of new arterial and collector streets shall be equal to the assessable cost of the improvement divided by the total adjusted benefiting area, or as identified in the Preliminary Engineering Report approved by the City Council. Typically, the benefiting area will include all property within one-half the distance to the next existing or proposed minor arterial or collector street on either side of the proposed improvement measured perpendicular to the street centerline. A portion of the assessable cost may be assessed by the adjusted front footage method to properties that have direct access to the minor arterial or collector street in addition to the adjusted area-wide assessment.
 - d. Collector & Arterial Street Reconstruction/Rehabilitation: The reconstruction, rehabilitation, or mill and overlay of arterial and collector streets may include both local assessments (for properties that have direct access to the street) and

adjusted area-wide assessments. The adjusted area-wide assessment rates for the various types of properties and street improvements shall be the rate established in the City's annual fee ordinance. The benefiting area for adjusted area-wide assessments shall be established in a Preliminary Engineering Report approved by the City Council for each minor arterial or collector street on a project-specific basis as identified in the Preliminary Engineering Report approved by the City Council. In cases where properties have direct access to minor arterial and collector streets, those properties will also be assessed for the cost of a local street in addition to the adjusted area assessment for minor arterials and collector streets.

- e. Properties Served by Private Streets: Unless otherwise recommended in a Preliminary Engineering Report approved by the City Council, the assessable unit shall be the number of parcels benefited by the improvement (fixed cost method) or the adjusted area (square foot or acre) of the benefited properties, both present and future. The assessment rate will be the assessable cost divided by the assessable units.
 - f. New Sidewalk: The assessment rate for the construction of new sidewalk shall be equal to the assessable cost of the improvement divided by the existing and future total adjusted front footage benefited by the improvement or the assessable cost of the improvement divided by the existing and future number of assessable units (fixed cost method) benefited by the improvement or as identified in the Preliminary Engineering Report approved by the City Council.
 - g. Sidewalk Repair/Reconstruction: The assessment rate for repair and reconstruction shall be the rate established in the City's annual fee ordinance.
 - h. Length of Assessment: The assessment period for street improvements is twenty-five (25) years for new construction and twenty (20) years for reconstruction, rehabilitation, and mill and overlay projects. The assessment period for sidewalk improvements is twenty-five (25) years for new construction associated with new development, and ten (10) years for all other sidewalk construction, repair, or reconstruction.
5. Special Provisions for New Development. For new developments governed by a Developers Agreement, the developer may request approval of assessment rates that deviate from those outlined in this policy. The request to deviate will include a proposed allocation of special assessments among all parcels within the area covered by the Developers Agreement. The proposed allocation will be reviewed by City staff to ensure that the allocation is equitable, reasonable, and does not result assessments to individual parcels that would render the parcel unmarketable.

VI. Administrative Policies & Procedures

- 1. Postponed Assessments for Property Outside City Limits: To the extent feasible and practical, growth area plans, annexations, and improvement projects will be

developed to avoid or minimize benefiting areas that include property outside City limits. When this is not possible, postponed special assessments for proposed improvement projects will apply to property outside of City limits. Postponed special assessments for proposed improvement projects are subject to the following provisions consistent with State statute and *Johanson v. City of Moorhead* (2019).

- a. The City will provide notice of the proposed improvement and special assessment at the time of the Project Hearing.
- b. The City will provide notice of the proposed special assessment at the time of the Assessment Hearing.
- c. The resolution considered by the City Council at the Assessment Hearing will identify postponed special assessments for properties outside City limits. However, these postponed special assessments will not be included in the assessment roll and will not be adopted by the City Council.
- d. Interest will not be applied to the postponed special assessment principal.
- e. Postponed special assessments are not adopted, and therefore, are not subject to any statutory time limitations.
- f. Upon annexation of properties subject to postponed special assessments, the postponed special assessments will be considered by the City Council at the next scheduled Assessment Hearing. At that time, the postponed special assessments will be included in an assessment roll and adopted.
 - i. If the annexed parcel(s) is developed, the special assessment will be certified for collection.
 - ii. If the annexed parcel(s) remains undeveloped, the postponed special assessment will be subject to policy provisions for deferred special assessments.

These assessment procedures are subject to the stipulations contained in any Annexation Agreement or Developer's Agreement approved by the City Council.

2. Deferred Assessments for Property Inside City Limits Adopted Under Previous Policy

- a. For undeveloped property, excluding parcels qualifying as Green Acres parcels, with deferred special assessments adopted under a policy prior to the effective date of this policy, and that remain deferred as of the effective date of this policy, interest accrual on the deferred special assessments will terminate on the last maturity date of the original bonds issued for the improvement.

3. Deferred Assessments for Property Inside City Limits

- a. Green Acres Parcels: In cases where improvement projects benefit properties that have been certified to qualify under the Minnesota Agricultural Property Tax Law or Green Acres law (Minnesota Statutes Chapter 273.111, as amended), the applicable special assessment will be deferred in accordance with the statutory language in effect at the time of the Assessment Hearing unless negotiated otherwise through an agreement between the property owner and the City. The provisions of this section take precedence over other policy provisions for the

deferral of special assessments. Based on the statutory language in effect as of the effective date of this policy, deferred special assessments for Green Acres Parcels are subject to the following provisions:

- i. The City will provide notice of the proposed improvement and special assessment at the time of the Project Hearing.
 - ii. The City will provide notice of the proposed special assessment at the time of the Assessment Hearing.
 - iii. The resolution considered by the City Council at the Assessment Hearing will identify Green Acres Parcels qualifying for deferred special assessments. These deferred special assessments will be included in the assessment roll and will be adopted and deferred by the City Council.
 - iv. The City will file a certificate with the County including the legal description of the parcel and the amount deferred.
 - v. Interest will be applied annually to the unpaid principal balance at the project interest rate.
 - vi. When the property no longer qualifies as a Green Acres Parcel, all deferred special assessments plus interest will be payable in equal installments plus interest over the time remaining until the last maturity date of the bonds issued for the improvement. If the bonds have matured, the deferred special assessment plus interest will be payable in ninety (90) days.
- b. Undeveloped Parcels (excluding Green Acres Parcels): In cases where improvement projects benefit undeveloped properties within City limits, the applicable special assessment will be deferred in accordance with this policy unless negotiated otherwise through an agreement between the property owner and the City. Deferred special assessments for undeveloped parcels are subject to the following provisions:
- i. The City will provide notice of the proposed improvement and special assessment at the time of the Project Hearing.
 - ii. The City will provide notice of the proposed special assessment at the time of the Assessment Hearing.
 - iii. The resolution considered by the City Council at the Assessment Hearing will identify undeveloped parcels qualifying for deferred special assessments. These deferred special assessments will be included in the assessment roll and will be adopted and deferred by the City Council.
 - iv. The City will file a certificate with the County including the legal description of the parcel and the amount deferred.
 - v. The assessments will continue to be deferred, and interest will not accrue, until one of the following events, whichever occurs first:
 1. Ten (10) years from the date of the Assessment Hearing notice, or
 2. The date the property status changes to a Developed Property. If a parcel subject to deferred special assessments is subdivided and developed, deferral for that portion that is not subdivided and developed will continue.
 3. Should all or any portion of the property be sold by the owner, special assessments will continue to be deferred under these same provisions.
 - vi. When the property no longer qualifies as an undeveloped parcel or the ten (10) year deferral ends, all deferred special assessments will be payable in

equal principal installments over a period of twenty (20) years plus interest at the project interest rate. The City will provide notice of the special assessments to be certified to the County for collection, but an Assessment Hearing will not be held.

- c. Hardship Deferral for Senior Citizens, Retired and Disabled Persons, and Members of the Military: In cases where an improvement benefits any homestead property owned by an eligible applicant, the City will provide a voluntary hardship deferral in accordance with Minnesota Statutes Sections 435.193 to 435.195, as amended, and Section 1-10-3 of the City Code. The procedures for hardship deferral implemented under this policy are separate from City Council action to adopt the special assessment roll for any given project (i.e. these assessments are adopted without specific action to defer). Hardship deferrals do not forgive the special assessment obligation.
- i. Eligible Applicants.
 1. A person sixty-five (65) years of age or older, or
 2. A person who is retired by virtue of a permanent and total disability, or
 3. A person who is a member of the Minnesota National Guard or other military reserve who is ordered into active military duty, and
 4. Demonstrates existence of a hardship to make special assessment payments
 - ii. Application.
 1. An eligible applicant must file the following information on a form to be provided by the City, signed by the applicant, and acknowledged by a Notary Public. Required documentation may be revised from time to time as appropriate.
 - a. Copy of a valid driver's license or other acceptable form of identification,
 - b. Copy of the most recent Federal Income Tax return,
 - c. If applicable, documentation of disability, and
 - d. If applicable, documentation of active military duty.
 - iii. Application Review.
 1. City staff will review the application to confirm eligibility including:
 - a. Homestead status, and
 - b. Income at or below the Federal Poverty Guidelines to establish hardship status.
 - iv. Implementation.
 1. For new special assessments, the application should be filed between the dates of notification of the Assessment Hearing and certification of the special assessment to the County.
 2. For existing special assessments, the application can be filed at any time during the special assessment term.
 3. If the application is approved, the deferment will take effect beginning with the next scheduled payment.
 4. An approved deferral is recorded against the homestead property.
 5. An approved deferral accrues interest at the project interest rate. Interest is not capitalized with the deferral.

6. An approved applicant must provide annual documentation of continued eligibility prior to special assessments being certified to the County.
- v. Termination.
 1. An approved deferral terminates upon any of the following
 - a. Death of the owner, provided the spouse is not otherwise eligible,
 - b. Sale, transfer, or subdivision of the property,
 - c. Loss of homestead status,
 - d. If the hardship is no longer sustained.
 2. Upon termination, any deferred principal and all accrued interest becomes due and payable.
- d. Developer-requested One-year Deferral: Developers that have petitioned for improvements to serve new development may request deferral of the first year's principal and interest payment under the following provisions.
 - i. The Developer responsible for payment of the special assessments requests the deferral in writing.
 - ii. The written request is received prior to the preparation of the assessment roll to be considered at the Assessment Hearing.
 - iii. The resolution considered by the City Council at the Assessment Hearing will identify parcels subject to the one-year deferral. These deferred special assessments will be included in the assessment roll and will be adopted and deferred by the City Council.
 - iv. The City will file a certificate with the County including the legal description of the parcel and the amount deferred.
 - v. Interest will be applied to the unpaid principal balance at the project interest rate.
 - vi. After the one-year deferral, the term for collection of the deferred special assessment principal plus one year's accrued interest will be collected over a period of twenty-four (24) years at the project interest rate.
 - vii. Annual payments for the deferred special assessment will begin after the one-year deferral with no further City Council action required.
4. Interest Rate on Assessments: Interest rates vary depending on the condition of the bond market at the time of project financing. The project interest rate will be set at one and a half percent (1.5%) over the applicable bond rate, subject to City Council approval.
5. Length of Assessment/Repayment Term: The assessment period for all new improvements is twenty-five (25) years. The assessment period for all improvements to existing infrastructure is twenty (20) years with the exception of sewer and water services, driveways, and sidewalks which may range from ten (10) to twenty (20) years.
6. Constant Payment and Constant Principal Assessments: Annual special assessment payments will be computed assuming the special assessment principal is paid in equal annual installments over the repayment term. The project interest rate will be charged on an annual basis on the unpaid balance of the total assessment principal. At the time of petition, developers may request that annual special assessment

payments be computed assuming constant annual special assessment payments over the repayment term.

7. Assessing Unpaid Service Charges:

- a. The City, under authority provided in the Moorhead Charter and City Code, requires that property owners perform certain property-related services or functions. If these services or functions are not satisfactorily performed, the City may perform the work and bill the property owner for the service. If the property owner fails to pay, the City may assess all or any part of the unpaid charges as a special assessment against the property. Hearing and other procedures outlined in MSA 429 are followed for these assessments.
- b. The City may assess all or any part of unpaid utility fees provided the property owner is responsible for payment of the unpaid fees.

8. Petitioned Improvements: The City Council will consider petitioned improvement projects to repair, rehabilitate, or reconstruct existing infrastructure. However, the need for specific projects shall be determined based on engineering standards and design criteria (e.g. the existing condition represents a physical or structural hazard, or is no longer cost-effective to maintain, etc.) as recommended by the City Engineer and approved by the City Council. Petitioned projects may be rejected by the City Council if it is determined that they are not necessary.

9. Uneven Distribution of Benefits: Projects having an uneven distribution of benefits may be subdivided into separate improvements using multiple assessment methods and rates to apportion the assessments more equitably.