

## **SPECIAL ASSESSMENT POLICY RELATING TO THE REHABILITATION OF ROADWAYS**

### **Policy 5.14**

#### **1) PURPOSE**

- a) The City of Lakeville, Minnesota finds that it is in the best interest of the City to outline the policy and procedures for calculating the special assessments to benefitting properties using the 429 Special Assessment Process.
- b) The policy shall apply to the rehabilitation of roadways with existing paved surfaces.

#### **2) OBJECTIVE**

- a) The City currently utilizes the 429 Special Assessment Process to fund a portion of the costs associated with the rehabilitation of roadways within the City. This policy is intended to:
  1. Define the share of improvement costs to be specially assessed to benefitting properties
  2. Identify the method(s) for calculating the assessments
  3. Identify the improvement types for which special assessments will be levied
  4. Identify the assessment period for the specified improvement type

#### **3) GENERAL**

- a) Minnesota Statutes Chapter 429 gives cities the authority to levy special assessments for public improvement projects to the benefitting property owners.

#### **4) IMPROVEMENT COSTS TO BE SPECIALLY ASSESSED TO BENEFITTED PROPERTIES.**

- a) It is the policy of the City to special assesses benefiting property for street reconstruction including mill and overlay costs in neighborhoods where the majority of the streets have deteriorated to the extent whereby it is no longer cost effective to provide routine maintenance.
- b) The special assessments will not be in excess of the benefit to the property. This policy applies to all streets that are public streets.
- c) Benefited properties shall be assessed 40% of the project costs, as calculated using the contract bid prices for the project.
- d) For the purposes of street reconstruction or mill and overlay, the project costs will include the cost of replacing or repairing concrete curb and gutter. In those cases where bituminous curbing is replaced with concrete curb and gutter, or where curb and gutter did not previously exist, the additional benefit will be assessed. The cost to be assessed shall be 100% of the cost of installing the concrete curb and gutter. This cost will be assessed on either a front foot or per lot basis. In areas where no storm sewer currently exists, the addition of a storm sewer system will also be considered an additional benefit and shall be assessed at 100% of the cost.
- e) Project cost includes both direct construction costs and all indirect costs such as engineering, financing and administration.
- f) Assessments for properties guided or zoned for single-family use shall be made on a per parcel (unit) basis. A property may be assessed for more than one unit in cases where the property could be reasonably further subdivided in accordance with current zoning and subdivision requirement.
- g) The City recognizes that various housing types typically do not carry the same number of persons (due to their respective densities) or generate the same amount of wear on the streets. Therefore, the following table outlines the cost allocation to be assessed per project:

<u>Land use</u>	<u>Factor</u>
Single family and detached townhomes	1.00
Duplexes	0.50
Town homes	0.50
Apartments	0.25

- h) Along major collector and arterial roadways, the Single-Family Unit Rate shall be prorated to reflect the City's typical 40-foot minor collector street section.
- i) If a street is reconstructed to a design standard greater than the current design standard due to the actual or zoned uses, the additional cost to reconstruct the street shall be fully assessed to those properties. If the street is reconstructed to a design different than the current standard, the total cost shall be fully assessed to those properties if conditions warrant.
- j) Properties abutting county roadways reconstructed to complete urban design and having reasonable access thereto shall be assessed in accordance with this policy. The assessments shall be used to defray the City's cost participation in the county improvement projects.
- k) Properties or areas of property that have been determined to be unbuildable shall be excluded from assessments. No building permits will be issued for such property so deleted from assessments.
- l) Senior Citizens, Disabled People, and Military Special Assessments Deferrals are available in accordance with City policy (see section 6). Other deferrals may be available as authorized by State Statute, Section 429.
- m) City will **not** special assess the cost of routine maintenance such as sealcoating, crack sealing or minor patching.
- n) Commercial and Industrial
  1. The method for calculating the special assessments for commercial and industrial properties shall be on a front foot basis, unless it is otherwise determined by the City Council.
  2. The front foot unit assessment rate will be based on the average cost per foot of assessable roadway improvements
  3. At the City Council's discretion, assessments may also be calculated using the same methodology as the predominant surrounding land use and/or zoning of the area.
    - i. For properties used or zoned for other than residential use, the Assessable Units will be calculated by multiplying the number of front feet by 1.5 (because streets and roadways adjacent to non-residential uses are typically constructed to higher standards) and divided by the minimum required lot width based on the lot requirements for the predominant single-family zoning in the area.
- o) Institutional and Public Properties
  1. The method for calculating the special assessments for these properties shall be the same methodology as the predominant surrounding land use and/or zoning of the area, unless it is otherwise determined by the City Council.
  2. At the City Council's discretion, assessments may also be calculated on a front foot basis.
- p) Mixed Use Areas
  1. The method for calculating the special assessments in these areas shall be the same methodology as the predominant surrounding land use and/or zoning of the area, unless it is otherwise determined by the City Council.
    - a. For properties used or zoned for commercial or industrial use, the Assessable Units will be calculated by multiplying the number of front feet by 1.5 (because streets and roadways adjacent to non-residential uses are typically constructed to higher

standards) and divided by the minimum required lot width based on the lot requirements for the predominant single-family zoning in the area.

2. At the City Council's discretion, assessments may also be calculated on a front foot basis.
- q) Agricultural land. Agricultural properties, regardless of the number of individual tax parcels, shall be assessed residential units commensurate with the number of users for the agricultural land (i.e. If there is one residential building structure for multiple adjacent agricultural tax parcels under the same ownership, only one residential unit assessment shall be levied, and it shall be levied against the parcel containing the building structure

## 5) **SPECIAL ASSESSMENT TERMS**

As established by the City Council but typically:

- a) Residential - The term is determined by the amount of the assessment according to the tiered structures illustrated below. For residential projects where there are mixed residential land uses the single-family rate will determine the term of the assessment.

<b>Residential Terms</b>	
Term in Years (Max)	Assessment Amount
5	\$0-\$2,500
10	\$2,501-\$5,000
15	\$5,001-\$7,500
20	\$7,501+

- b) Commercial –
  1. *Commercial special assessments will be based on the term established for residential (single-family) properties for projects within the same year.*
  2. If the aggregate assessments for a specific commercial business exceed \$50,000, the commercial property owner can request that the term of the assessments is extended by 50%.
  3. An assessment term will not exceed 20 years, when considering any term extension requests for commercial properties.
  4. Commercial term extension requests must be in writing and received at or before the public hearing held to adopt the special assessments.

## 6) **DEFERMENT OF SPECIAL ASSESSMENTS – SENIOR CITIZENS, DISABLED AND MILITARY**

### a) Purpose

1. The City Council finds that there is a need to establish a procedure permitting deferment of special assessments pursuant to Minn. Stat. §435.193-435.195 in cases where payment thereof would create a hardship for qualifying homeowners.

### b) Definitions

1. Permanent Total Disability. As defined by Minnesota Statutes 176.101, Subd. 5.
  - i) Hardship. A hardship exists when one of the following conditions exists:
    - (1) Annual Household Income is less than Poverty Guidelines as established by the US Department of Health and Human Services.
2. Household Income. Household income includes the income of all owners of the property.
  - i) Adjusted Gross Income as reported on the individual's Federal income tax return is considered household income for City purposes.

c) Eligibility

All the following criteria must be met in order to be eligible for deferment:

1. The property must be homesteaded.
2. The applicant must be the fee owner, contract vendee or trustee of the property.
3. The applicant must occupy the property as the applicant's principal place of residence.
4. Annual household income is less than Poverty Guidelines as established by the US Department of Health and Human Services and one of the following criteria must be met:
  - i) A person 65 years of age or older or retired by virtue of a permanent and total disability.
  - ii) A person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, as defined in Minn. Stat. §190.05, Subd. 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments.

d) Application Process

1. The applicant must apply for the initial deferment not later than 90 days after the assessment is adopted by the City Council.
2. Applications for deferment of a special assessment must be submitted on or before September 30 of each year in order to continue the deferment.
3. The Finance Director or designee is responsible for reviewing applications and providing to the City Council a list of applicants for approval or denial of deferments.

e) Evidence of Eligibility

1. Senior Citizen
  - i) Driver's license or other valid ID.
2. Permanent Total Disability
  - i) Letter of Determination.
3. Military.
  - i) Military orders.
4. Income verification includes total Household Income, as evidenced by
  - i) Adjusted gross income as reported on the applicant's Federal income tax return

f) Appeal Process

1. Homeowners may appeal the Denial of a deferment if written appeal is filed with the City Clerk within 30 days of receipt of the Denial.
2. Homeowners will be provided the opportunity to present their appeal to the City Council at the next regular City Council meeting.

g) Interest

1. During the period of deferral, simple interest will accrue for the term of the special assessment on any deferred principal at the rate established on the original special assessment.

h) Termination of Deferment

It shall be the duty of the applicant to notify the City Clerk of any change in the applicant's status that would affect eligibility for deferment.

The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events:

1. the death of the owner, provided that the spouse is otherwise not eligible for the benefits hereunder;
2. the sale, transfer, or subdivision of all or any part of the property;
3. loss of homestead status on the property;

4. property owner ceases to meet the requirements of Minnesota Statutes §190.05, Subd. 5b or 5c;
5. if for any reason the City Council shall determine that there would be no hardship;
6. failure by the owner or a representative of the owner to file a renewal application prior to the September 30 deadline;
7. at the request of the property owner.

If the deferment is terminated, the property owner must pay the deferment, including both principal and accrued interest, prior to December 1. If not paid, the amount will be certified with interest to the Dakota County Auditor to be collected with the subsequent year's taxes.

#### **7) EFFECTIVE DATE**

The effective date of this policy is as of January 1, 2018. The City will grandfather the property owners that were approved for the deferral program under the previous guidelines since 2017 and prior. If an existing deferment fails to meet the grandfathered criteria and the assessment is then activated, future re-application for deferment would be based on the new requirements. Property owners applying for the 2018 street reconstruction project and beyond must meet the new criteria as established by this policy.