



**WILLMAR CITY COUNCIL WORK SESSION**

**MONDAY, APRIL 10, 2023 @ 6:30 PM**

**WILLMAR CIVIC CENTER**

**2707 ARENA DR WILLMAR, MN 56201**

**ALSO AVAILABLE BY ELECTRONIC MEANS FOR REMOTE COUNCIL MEMBERS**

**AGENDA**

1. Call Meeting to Order
2. Roll Call
3. Pledge of Allegiance
4. Proposed Additions or Deletions to Agenda
5. Regular Business
  - A. Council Orientation
  - B. Special Assessment Policy Review
6. Adjourn to Closed Session
  - A. Closed Session Under MN Statute 13D.05 Subd.3
  - B. Closed Session Under MN Statute 13D.03
7. Adjourn



### City Council Action Request

<b>Council Meeting Date:</b>	April 10, 2023	<b>Agenda Item Number:</b>	5.B.
<b>Agenda Section:</b>	Regular Business	<b>Originating Department:</b>	Administration
<b>Resolution:</b>	No	<b>Prepared By:</b>	Brittany Searle, Administrative Assistant
<b>Ordinance:</b>	No	<b>Presented By:</b>	Leslie Valiant, City Administrator
<b>Item:</b>	Special Assessment Policy Review		

**RECOMMENDED ACTION:**

Discussion Only

**OVERVIEW:**

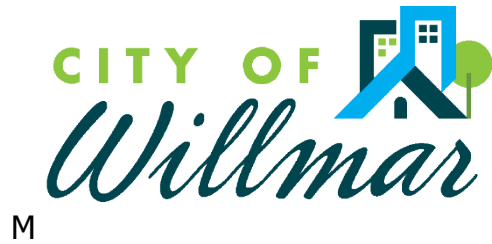
Robert Scott will review changes to the assessment policy

**BUDGETARY/FISCAL ISSUES:**

**ALTERNATIVES TO CONSIDER:**

**ATTACHMENTS:**

1. Assessment Policy - Marked Up
2. Comprehensive Assessment policy adopted 3-7-22



# ***CITY OF WILLMAR***

## ***COMPREHENSIVE ASSESSMENT POLICY***

Adopted: June 6, 1990  
Revised: September 18, 1991  
Revised: January 22, 1992  
Revised: February 5, 1997  
Revised: May 7, 1997  
Revised: March 3, 2003  
Revised: April 4, 2005  
Revised: March 7, 2022

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# **I. SPECIAL ASSESSMENTS IN 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 improvements.

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 (sub-base, base, hard surfacing), alleys, curb and gutter, sidewalks, driveway approaches, installation of water mains, sanitary sewers, storm sewers (including trunk lines), sewer and water service lines, and street lights.

C. THE BENEFIT PRINCIPLE

Special assessments may be levied only upon property receiving a special benefit from the improvement to the extent of the special benefit, as measured by the increase in market value to the benefited property attributable to the improvements. 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.

## **II. GENERAL STATEMENTS OF PURPOSE, POLICY, AND LIMITS**



A. PURPOSE

The purpose of this Special Assessment Policy 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 Willmar (hereinafter called "City") pursuant to the law, the City Charter, and the order of the City Council (hereinafter called "Council") of the City of Willmar. These policies shall serve as a guide for this and future Councils, for administrative personnel, and as a source of information 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 improvements of streets, sidewalks, curbs, gutters, and utilities within the City.

B. POLICY

The Council hereby declares:

That the assessment policies contained herein are the policies that the City is dedicated to follow, as nearly as possible and practical; and

- (1) That A percentage of all improvement costs shall, whenever possible, be assessed in full against benefited property on a one hundred (100) percent basis, according to the special benefit principle where the amount assessed may not exceed the value of the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements; and
- (2) 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.

C. LIMITS

These assessment policies are designed to serve only as a general guide for the 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 which may occur in the future, or if such variance is deemed to be in the best interest of the City.

**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 unit 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 the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements. Project cost may include part or all of the cost of previously installed projects, not previously assessed, subject to legal considerations.

It shall be the policy of the City to assess benefited properties by linear foot of frontage on a right-of-way within which the public improvement project is constructed, area, or by unit, whichever is determined by the City to be the most equitable and appropriate. All facilities which represent new service to areas previously without City utility service shall be assessed at the rate of one hundred (100) percent of the cost of installation.

B. ASSESSMENT PERIOD

The standard term of assessment for public improvements shall be ten (10) years. The Council may, however, establish a shorter or longer term if it is determined to be in the best interests of the City. In no event shall the term exceed a period of twenty (20) years.

C. INTEREST RATE

Unless otherwise determined by the Council in its discretion, ~~the Council shall establish an interest rate to be paid on the unpaid balance of special assessments as may be necessary shall be set at the rate that is two-three percent higher than the interest rate on the bonds sold by the City to finance the City's share of the improvements to meet bond principal and interest, as well as other related municipal costs.~~

D. PROJECT COST

The City Council shall determine the total cost of the improvement by adding: the amount of contract cost; the cost of labor and materials furnished by the City, if not contained in contract costs; the cost of engineering, legal, fiscal, and administrative services provided by City staff or other parties; the cost of acquiring easements, property, or right-of-way required by the improvement; interest costs incurred by the City between the time money is borrowed for the improvement and special

assessments are paid in full; and any other costs which, in the opinion of the Council, should be included as part of the total project cost.

E. ~~DEFERRED ASSESSMENTS~~

~~It is the policy of the City to not defer assessments for improvements within the City unless circumstances warrant special consideration. Assessments shall be considered deferred only after the Council has ordered an improvement. The assessments shall remain in this classification until such time as they are paid in full by the property owner or certified to the County for collection. While deferred, interest shall be due annually at the rates as established unless the Council by resolution defers such interest with the principal, at which time it shall be added to the principal. The Council may also, by resolution, forgive interest during the period assessments are deferred. All deferred assessments, including terms and conditions, must be established at the time of adoption of the assessment roll. The estimated useful life of the improvement shall apply to the payment of deferred assessments.~~  
**This paragraph does not refer to deferred assessments for elderly and low-income persons, which are addressed in paragraph "R" of this section.**

FE. CITY SHARE OF PROJECT COST

Generally speaking, the City shall not participate in project costs for new developments. 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 a 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, except as outlined in paragraph "I-H" of this section.

The City will participate in the cost of street reconstruction projects. Assessments to benefitted residential property owners under a reconstruction program shall be determined by establishing the total cost of reconstructing a standard residential street, including but not limited to replacing curb, gutter, and sidewalk, and sanitary sewer, water and stormsewer mains, as applicable, and assessing seventy-five (75) percent a percentage of the total cost to the property owners of the project to the benefitted properties according to the special benefit principle. Any costs directly attributable to over-sizing may be paid fully or partially by the City and/or commercial or industrial properties requiring the over-sizing. ~~Intersections of cross streets are not considered City-owned property for the purposes of this section.~~

The Council may, at its discretion, finance its share of any such improvement costs by one or more of the following methods or any combination thereof:



1. ~~Street improvements --~~

- a. ~~Pay all or portions of the reconstruction cost with ad valorem City tax funds, municipal state-aid street funds (if applicable), reserves or such other funds which may be appropriate and available to the City from time to time.~~
- b. ~~For street reconstruction or repairs required due to a utility line relocation, repair, or replacement, the City may require partial or total cost sharing from the Willmar Municipal Utilities Commission or whichever other public or private utility company may be involved.~~

2. ~~Water or sewer improvements --~~

- a. ~~Pay all or portions of the project cost through a utility replacement fee collected pursuant to the established procedures of Ordinance No. \_\_\_\_\_.~~
- b. ~~Require payment from utility revenues by the Willmar Municipal Utilities Commission.~~
- c. ~~Levy an ad valorem tax to pay all or a portion of the City's share of any project, or use such other funds as may be available to the City from time to time.~~
- d. ~~Apply sewer service revenues from the Waste Treatment Plant operation.~~

GF. DRIVEWAY PAVEMENT

New driveway apron pavements are of benefit only to the affected property owner, and, as such, will not be included in an improvement project, but must be constructed, and paid for, privately with the approval of the City. Any driveway aprons disturbed by a street reconstruction project shall be repaired and/or replaced at no cost to the property owner. Driveway pavement required to be removed for construction of the improvements shall be replaced with standard bituminous or concrete. The costs associated with removal and replacement shall be incorporated into the total project cost and assessed accordingly. The affected property owner(s) may request a decorative replacement or other betterment for any disturbed driveway aprons but will be assessed one hundred (100) percent of the additional expenditure attributable to the betterment. Nothing herein shall obligate the City to install such decorative replacement or other betterment.

HG. PRIVATE DEVELOPER PROJECTS

~~No special assessments for improvements shall be left pending, and the developer requesting the improvements shall be required to fund and pay the special assessments benefiting any such properties. All developers shall be required to provide collateral in the form of cash, bond, approved letter of credit in the amount of thirty (30) percent, or thirty (30) percent cash prepayment, of the estimated cost of needed improvements upon City Council approval prior to commencement of the work by the City's contractors. The "no pending" policy shall apply to properties lying outside the City limits as well. The Council may consider reimbursement to the appropriate parties if such property is annexed and subsequently assessed for the improvement, and if the entire assessment and accrued interest is paid within ten (10) years from the date of construction.~~

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 completed by the developer pursuant to a development agreement with the City.

The following provisions shall apply to new development projects:

- a. Except as otherwise approved by the city council, the developer shall be required to construct and pay the full cost of all public improvements within a new development project.
- b. The developer may petition for construction of certain public improvements to be done by the city, which may be approved in the discretion of the city council.
- c. In any project which includes a major street or trunk utility, the developer must petition the city if the developer wants the city to construct such improvements pursuant to Minn. Stat. ch. 429; the city will not undertake such construction simply by contractual arrangement with the developer.
- d. The cost of any such improvements constructed by the city shall be assessed entirely to benefited properties within the project area except to the extent that such improvements benefit property outside the project area. Assessments to the project area will normally be allocated by the front foot method; however other methods may be utilized if conditions warrant as recommended by the city engineer. The developer may be required to sign an agreement of assessment and waiver of appeal rights pertaining to the cost of such improvements.
- e. Where the developer constructs and generally pays for the public improvements in a project, the city council may agree to pay part of the

cost of the improvements where part of the cost is attributable to benefits outside the project area. The city's share of such costs shall come from any available source as designated by the council. Nothing in this article shall prevent the city from assessing such costs to other properties benefited by the subject improvements at some future time.

- f. The city retains the right to refuse financial participation in any public improvement project if, in the opinion of the city council, the project is not necessary, feasible and cost effective.

IH. GOVERNMENT-OWNED PROPERTIES

Government property owners shall be responsible for assessments associated with new developments and/or reconstruction projects to the maximum extent permitted by law., with the exception of neighborhood parks in new developments. City-owned neighborhood parks shall not be assessed as City property for the cost of developing and constructing streets, street right-of-ways, and infrastructure.

JI. FRONTAGE ROADS

Frontage roads along highways 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 totally~~ cost of the improvement will be assessed to the maximum extent consistent with the special benefit principle to the property owners. The Council may consider special circumstances as appropriate to determine and adjust benefit and subsequent cost.

KJ. 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, or storm drainage facilities be made by any development on that property, unless and until an assessment (and/or connection fee) is adopted and certified for collection on the basis as aforementioned for property lying outside the City limits.

LK. 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 attempt to negotiate a contract with the owner of such property, which will provide for payment to the City on the same basis as if the property were within the City, and assessed for the improvement as a prepayment upon completion of the project. No physical connection to the City's sanitary sewer or water main trunk line systems will be permitted until a utility agreement and contract, including satisfaction of costs or assessments, is executed. To the greatest extent possible and practical, it shall be the policy of the City to require annexation prior to the extension of any service or facility to any property outside the City limits.

ML. LATERAL EQUIVALENT

When a trunk water distribution line, sanitary sewage collection (or trunk) line, or storm sewer trunk line which also provides service to abutting properties through service laterals or other means serves as a lateral must be constructed in an area and oversized for design purposes to serve a larger area beyond the properties receiving such lateral benefit, the project costs attributable to serving such larger area shall be financed by the City through established water and sewer improvement methods and shall not be assessment assessed will be levied against abutting property owners properties.

M. TRUNK SANITARY SEWERS

In the event oversized or trunk lines are not required in an area but are necessary to provide adequate service and capacity for areas beyond the specific area in question, the oversized or trunk line (\*) share of the cost (the amount in excess of lateral costs) shall be assumed by the City. This policy, however, shall not prevent the City from assessing properties that receive a special benefit from such project or creating special trunk line assessment districts if deemed advisable and proper in any particular situation.

(\*) Normally eight (8) inches or larger in residential areas.

N. NEW SANITARY SEWER/WATER MAIN LATERALS

One hundred (100) percent of the cost of new water and sewer lateral improvements, including mains and service lines, shall be assessed against benefiting, adjacent properties on a unit basis.

O. WATER SERVICE OR FIRE LINES

New service lines benefiting properties shall be assessed one hundred (100) percent of the cost, including those lines required or requested for fire protection purposes.

P. NEW STREET CONSTRUCTION

One hundred (100) percent of the costs of new street (paving or any other street improvement) and curb and gutter improvements shall be assessed against benefited property, except as outlined hereafter. The costs of each improvement shall include costs of intersections and related drainage facilities. The number of front feet assigned to each property shall be the linear footage abutting (or benefited by) the street improvement, determined by measuring at the front of each property the distance between property lines. Irregular or odd-shaped lots shall be given an average width.

This average width may be determined by using the average of the front and rear widths, an average of the other lots in the general area being improved, or a width based on average lot area or depth based on either the existing plat (if any) or the Zoning Ordinance.

It shall be the policy of the City to assess residential properties only for the costs which would have incurred had a standard residential street specification been utilized. The City shall bear the responsibility for any cost exceeding that normal residential street cost, except that the City may assign all or a portion of its excess cost to non-residential properties abutting the street, if in the judgment of the City the existing or projected use of that property required the increased expenditure for the additional street construction requirements.

Q. STREET RECONSTRUCTION

If the Council elects to completely reconstruct a street, it shall, assess abutting property owners as follows:

1. Except as otherwise provided by State law, all classes of properties shall be assessed a percentage of the total cost to reconstruct a street on a front footage basis according to the special benefit principle where the amount assessed may not exceed the value of the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements. This shall include commercial, industrial,

residential, and tax exempt properties.

N.R. INTERSECTIONS

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

S. STREET OVERLAYS

The City may resurface or overlay a street. In this event, the City shall assess a percentage of the total cost of such improvement to benefited property owners on a front footage basis according to the special benefit principle where the amount assessed may not exceed the value of the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements. The manner in which assessment amounts are determined shall be similar to that for the street reconstruction program.

An overlay is considered normal maintenance and does not fall under the assessment exemption or reduction of the "twenty (20)-year street life" policy.

T. SIDEWALKS

All costs for installing sidewalk facilities may be assessed against abutting properties based on the same formula applicable to street or curb and gutter improvements.

OU. IRREGULAR SHAPED LOTS

1. Corner lots. The assessable footage assigned to corner lots for purposes of calculating assessments for street reconstruction, including repair or replacement of curb, gutter, sidewalk, and stormsewer, or street overlays, shall be 100 percent of the length of the property's shorter frontage, or if the length of frontage on both streets abutting the corner lot is equal, the side on which the utility service connections are located, and 30 percent of the lot's longer frontage, or if the length of frontage on both streets is equal, the side on which the utility service connections are not located. The assessable footage assigned to corner lots for purposes of calculating assessments for repair or replacement of sanitary sewer, or water mains shall be 100 percent of the length of the property's frontage on which the utility service connections

~~are located. Corner lots shall not be assessed for repair or replacement of sanitary sewer, or water mains within a right of way abutting the corner lot if there are no utility service connections from the corner lot to such sanitary sewer, or water or mains. with single, duplex, or triplex residential units shall be the average lot footage for all lots within 300 feet on each side of the corner lot along the street being assessed. In development areas that are precluded from averaging lots within 300 feet each direction, the assigned footage will be an average of lots within the immediate neighborhood. If the assigned width of a corner lot is determined by a neighborhood average, the footage shall be recorded at a width equal to or greater than the next largest lot within the same block on the street under construction. For commercial, industrial, tax exempt, and multiple-dwelling residential property, all improved street frontages shall be assessed in full. As a general rule residential corner lots will only be assessed when the street that fronts their address is improved, however, any unique lot layout whereby benefits are derived from other contiguous streets, the side so assessed shall be the side generating the greater benefit. All residential corner lots assessed in the last 10 years would be exempt and assessments for lots assessed in the 11th through the 20th years would be prorated based on the useful life section.~~

2. Double-frontage lots. The assessable footage assigned to lots other than corner lots with frontage on more than one right-of-way for purposes of calculating assessments for street reconstruction, including repair or replacement of curb, gutter, sidewalk and stormsewer, or street overlays, made within such rights-of-way shall be 100 percent of the length of the property's frontage on which the utility service connections are located and 30 percent of the length of the property's frontage on which the utility service connections are not located. The assessable footage assigned to lots other than corner lots with frontage on more than one right-of-way for purposes of calculating assessments for repair or replacement of sanitary sewer, or water mains shall be 100 percent of the length of the property's frontage on which the utility service connections are located. Properties with multiple frontages shall not be assessed for repair or replacement of sanitary sewer, or water mains within a right of way abutting the property if there are no utility service connections from the property to such sanitary sewer, or water mains.
- 2.3. Others. For lots that are of irregular shape, such as those on a cul-de-sac, the assessment shall be determined by the City on a comparative basis to units or areas with regular shaped properties in the immediate proximity or project area. A lot may be considered irregular if it is not rectangular in shape. For residential properties which do not meet the minimum lot width as specified in the Willmar Zoning Ordinance, the reconstruction assessment shall be based on a lot frontage of at least fifty (50) feet.

P. USE OF TAPPING FEES

~~Tapping fees are established by the City to reflect approximately the usual assessment charged for sewer and/or water in the year of connection. The City Engineer will annually calculate sewer and water tapping fees based on current street project costs. The City shall collect said tapping fee(s) in total at the time a permit is issued for connection to the City sewer and/or water mains, or at the time a permit is issued for remodeling or for an addition which will increase the number of units on a parcel beyond what was originally assessed for. No part of said tapping fee(s) shall be delayed, deferred, or suspended. The estimated useful life of the improvement shall be considered when calculating each individual tapping fee.~~

QV. TAX FORFEITED PROPERTIES

~~Properties which have been forfeited to the State for nonpayment of taxes are subject to possible reassessment. The policy of the City is that the entirety of the unpaid principal balance of any assessments against such properties at the time of tax forfeiture will be reassessed with interest following the County's resale of any such tax forfeited property to a third party. The amount of special assessments subject to reassessment are determined by Council resolution following notice from the County of the appraised value of the tax forfeited land and the date of proposed sale. A resolution of the County Board eventually authorizes and fixes the terms of the sale. Following notice of any sale of a tax forfeited property, the City will conduct an assessment hearing and certify for collection any unpaid special assessment balance for a period of five (5) years, or the remaining length of the bond issue debt service schedule, whichever is longer. These assessment terms and conditions may be modified on a case-by-case basis only if there is variation in the sale price established by the County.~~

R. ELDERLY/INCOME DEFERMENTS

~~Any person who is sixty-five (65) years of age or older, or who is retired by virtue of permanent and total disability, may apply for deferment of special assessments against the homestead property owned by said person.~~

~~Any person authorized to apply for such deferment whose annual income is equal to or less than the poverty level established by the U.S. Government shall be entitled to such deferment.~~

~~Any other person who falls within the criteria of the first paragraph, but whose annual income exceeds the Federal poverty level, may still make application for deferment~~

~~and shall be granted such deferment if the person can establish exceptional and unusual circumstances constituting a financial hardship. The City Council shall determine whether the circumstances recited by the applicant are exceptional and unusual, thereby justifying a deferment.~~

~~The option to defer payments will terminate and all deferred payments and interest become payable if:~~

- ~~a. the owner dies and the surviving spouse is not eligible; or~~
- ~~b. the property or a portion of the property is sold, transferred, or subdivided;  
or~~
- ~~c. the property loses its homestead status; or~~
- ~~d. the Council determines that to require immediate or partial payment would not create a hardship.~~

~~The option to defer payments will terminate as described above and continuation of deferments will be not be granted nor extended to homesteaded property of a senior citizen qualifying family member. (Amended April 16, 2012)~~

~~S. MUC AGREEMENTS~~

~~— An agreement between the City of Willmar and MUC exists for the installation and maintenance of street lights, which agreement is attached to and made a part of this assessment policy. (See pages 13-16)~~

~~T. TAX EXEMPT PROPERTIES~~

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

~~U. REAPPORTIONMENT~~

~~— Property owners may apply to the City for reapportionment of special assessments for any tract of land against which a special assessment has been levied and is subsequently subdivided. The City may, on its own motion or on application of the owner of any part of the tract, equitably apportion among the lots in the tract all of the unpaid assessments. Such action must, however, be preceded by a notice served upon all owners of any part of the tract and subsequent public hearing. The public~~

hearing may be waived upon approval of all affected property owners.

~~— The City will not record any sale of split parcels that are subject to special assessments unless the assessments have been paid, or reapportionment application and accompanying fee has been made to and approved by the City.~~

~~— As a part of its approval process, the City will require the reapportionment of special assessments to be based on benefit and assessed equitably against the front footage, lot size, or number of units, whichever is appropriate.~~

#### VW. ALLEYS

Improvements to alleys will be assessed to benefited property owners for one hundred (100) percent of the cost. Exceptions will include routine maintenance as determined by the City Engineer.

#### W. AGRICULTURAL LAND EXEMPTIONS

~~It shall be the policy of the City to temporarily exempt from assessments certain lands currently used for agricultural purposes. Granting an approval for agricultural exemption, the Council shall consider the following: the likelihood of the property being developed in the reasonably foreseeable future, the current use of the property, the ownership/management structure of the property, the size of the property, and other factors deemed pertinent.~~

~~Real estate consisting of five (5) acres or more shall be eligible for the assessment exemption if it is actively and exclusively devoted to agricultural use as defined hereinafter, and either:~~

- ~~1. — is the homestead or thereafter becomes the homestead of a surviving spouse, child, or sibling of the said owner, or is real estate which is farmed with the real estate which contains the homestead property; or~~
- ~~2. — has been in possession of the applicant, his or her spouse, parent, or sibling, or any combination thereof, for a period of at least seven (7) years prior to application; or~~
- ~~3. — is the homestead of a shareholder in a family farm operation. Family farm corporation for the purpose of this section means a corporation founded for the purpose of farming and owning agricultural land in which all of the stockholders are related and members of a family.~~

~~Real property shall be considered to be in agricultural use provided that it is devoted~~

by the owner of said real property to the raising of crops, forage, produce, fruits, or horticulture/nursery stock, or the production of livestock/poultry or livestock/poultry products. Real property which is enrolled in a government conservation or set-aside program shall also be considered to be in agricultural use. Slough, wasteland, and woodland contiguous to or surrounded by those lands above-described shall be considered to be in agricultural use if under the same ownership and management.

In all cases, the temporary exemption shall be deemed to have expired at such time as the property is platted and/or developed. For sewer and water projects, a tapping fee shall be charged at the time of connection or when the final plat is approved. These tapping fees shall be based on the project year bid price per front foot or unit, or on the current year costs at the time of connection/platting, whichever is greater. For street projects, assessments will be charged when the property is developed or when the final plat is approved. These assessments shall be based on the project year bid price per front foot or unit, or on the current costs at the time of development/platting, whichever is greater. Useful life shall not be considered in the calculations.

X. AGRICULTURAL LAND DEFERMENTS DEFERRED SPECIAL ASSESSMENTS

1. Hardship Deferments.

The City may, in its discretion, defer assessments against property owned by certain senior citizens, people with disabilities, and members of the military in accordance with Minn. Stat. § 435.193 and City Code § 5-89. The Council may limit the deferment to one (1) year or to a limited period of years, and may require regular verification by the applicant of the continuation of the exceptional and unusual circumstances that justify the deferment. A hardship deferment shall end and all accumulated amounts (including applicable interest, if any) become due:

- a. Upon the death of the owner if the spouse is not otherwise eligible for deferment;
- b. Upon the sale, transfer or subdivision of any part of the property;
- c. Upon loss of homestead status; or
- d. Upon the council's determination that immediate or partial payment would impose no hardship.

2. Unimproved Property. It shall be the policy of the City to defer assessments against unimproved property as permitted by Minn. Stat. § 429.061, subd. 2



and City Code § 5-89. Payment of the first installment of any assessment levied upon unimproved property may, at the Council's discretion, be deferred until a designated future year or until the platting of the property or the construction of improvements thereon.

3. Green Acres. It shall be the policy of the City to defer assessments against those lands which qualify for deferment under the Minnesota Agricultural Property Tax Law ("Green Acres" Law), ~~M.S.~~ Minn. Stat. § 273.111, as amended.
  
4. Interest Rate. All amounts deferred under any of the above programs shall bear interest at the rates established by the Council in the resolution in which the assessment was imposed. The policy of the Council is to defer such interest with the principal unless otherwise specified in the resolution granting the deferment. The Council may also, in the resolution imposing the assessment, forgive interest during the period assessments are deferred. All deferred assessments, including terms and conditions, must be established at the time of adoption of the assessment roll.

## **IV. PROCEDURES**

A. INITIATION OF PROCEDURES

1. By Petition: A petition for improvement by property owners may initiate proceedings. Said petition must have the signature of the owners of at least thirty-five (35) percent of the frontage of the property bordering the proposed improvements. ~~Petitions for public improvements must be received by the City Clerk prior to January 15 or the year in which the construction is requested. The City may delay construction to the following year for petitions received after the deadline.~~ The Council retains full discretion to determine whether to proceed to order such improvements and the timeline for such project, if ordered.
2. By Council Action: If the Council determines that an improvement is in the best interest of the City, it can without petition order an improvement. If the Council acts on its own initiative, an extraordinary majority is not necessary to initiate the proceedings.
3. 100% Signed Petition: When a petition is signed by one hundred (100) percent of the property owners affected by an improvement, the Council may order said improvement without holding an improvement hearing. This can be accomplished by special resolution.

B. PREPARATION OF A REPORT

The City Council shall order an improvement report from the City Engineer which reviews such factors as the need for the project, the availability of City funds, an estimate of total project costs, and other information necessary for the Council to make a decision.

C. PUBLIC HEARING

With the exception of the one hundred (100) percent signed petition, the City shall publish notice of the hearing twice in the official newspaper, with the notices appearing at least one (1) week apart. At least three (3) days must elapse between the last publication date and the date of the hearing. A notice shall be mailed to each affected property owner at least ten (10) days prior to the hearing date stating hearing date information, proposed improvements, and estimated costs.

D. ORDERING THE IMPROVEMENT AND PREPARATION OF PLANS

If improvement proceedings are initiated by petition, the Council needs a simple majority to pass a resolution for improvement. If the Council initiated the proceedings, it will require a four-fifths (4/5) majority to adopt an improvement resolution. The Council will then direct the City Engineer to prepare plans and specifications, followed by a call for bids.

E. PREPARATION OF PROPOSED ASSESSMENT ROLLS

Assessment rolls are prepared-administered by the office of the City Clerk. Rolls will be prepared for each project involving assessments to benefited properties, and are to include parcel descriptions-identification numbers and estimated assessment costs.

F. PUBLIC HEARING ON THE PROPOSED ASSESSMENT

The assessment hearing is designed to give affected property owners an opportunity to express their concerns. The City must publish notice of the hearing, including the total cost of the improvement, in the official City newspaper one or more times at least two (2) weeks prior to the hearing date. The City will also mail a statement showing possible prepayment provisions, and the interest rate on the assessments if they are to be paid in installments.

G. APPROVAL AND CERTIFICATION OF ASSESSMENT ROLLS

Following the hearing, the assessment roll shall be officially adopted by the Council and certified to the County Auditor. All adjustments to the roll shall be made by contacting the City Clerk prior to the hearing, or by the Council at the time of the hearing. The assessments will be levied in equal annual principal installments with interest set by the Council on the unpaid balance.

H. PREPAYMENTS

After the adoption of the assessments, the City shall certify the assessment roll with each installment, including interest, to the County Auditor for collection. All assessments and interest thereon shall be collected and paid over in the same manner as other municipal taxes. The owner of any property so assessed may, at any time prior to certification of the assessment or the first installment thereof, pay

the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption thereof; and, except as hereinafter provided, the owner may at any time prior to November 15 of any year, prepay to the City the whole assessment remaining due with interest accrued to December 31 of the year in which said prepayment is made. The City shall accept partial prepayment of assessments prior to certification of the assessment or the first installment thereof to the County Auditor. Thereafter the owner of any property so assessed may make one partial payment per calendar year on the assessment balance if the partial payment is equal to or greater than \$1,500.00.

## **~~V. METHODS OF DETERMINING ASSESSMENTS~~**

A. GENERAL ASSESSMENT INFORMATION

It shall be the policy of the City to assess benefited properties by linear foot, area, or by unit, whichever is determined by the City to be the most equitable and appropriate. All facilities which represent new service to areas previously without City utility service shall be assessed at the rate of one hundred (100) percent of the cost of installation.

B. TRUNK SANITARY SEWERS

In the event oversized or trunk lines are not required in an area, but are necessary to provide adequate service and capacity for areas beyond the specific area in question, the oversized or trunk line (\*) share of the cost (the amount in excess of lateral costs) shall be assumed by the City and financed by Sewer Service Revenues. This policy, however, shall not prevent the City from assessing special benefits or creating special trunk line assessment districts if deemed advisable and proper in any particular situation.

(\*) Normally ten (10) inches or larger in residential areas.

C. SANITARY SEWER/WATER MAIN LATERALS

One hundred (100) percent of the cost of new water and sewer lateral improvements, including mains and service lines, shall be assessed against benefiting, adjacent properties on a unit basis. Water and sewer replacement lines shall not be assessed against benefited, adjacent properties and shall be financed by the City through established water and sewer improvement methods. (see Section III.F.2.)

1. Units, Developed, or Built-Up Property: A unit for residential property shall be defined as a parcel of property on which a single residence is located and which cannot be subdivided for additional structures under the minimum requirements of the City Zoning and Subdivision Ordinances. On residential property, additional units for assessment purposes may be added for a parcel which can be subdivided into more than one legally platted lot.

For assessment purposes, multiple dwelling properties shall be assigned one unit for the first dwelling unit contained in a structure, and seventy-five (75) percent of one unit for each additional dwelling unit within that structure.

~~All other developed property (including commercial and industrial) shall be assigned units for assessment purposes at the rate of one unit for:~~

- ~~a. Every 150 gallons of water used per day; or~~
- ~~b. A residential land use equivalent of 8,500 SF/unit; or~~
- ~~c. As may be otherwise recommended by the Engineering Department.~~

~~2. Units, Undeveloped Property: The number of assessable units will be calculated as the maximum number of units allowed under the Zoning Ordinance for the various land use classifications within the benefited project area.~~

~~The average and reasonable depth of benefited land will be determined based on projected future land use.~~

~~Mobile home parks, multiple dwelling complexes, commercial, and industrial uses may be subject to a sewer or water connection fee for additional and unforeseen benefits not originally anticipated, nor assessed.~~

~~D. FIRE DEMAND WATER MAIN TRUNK~~

~~If a trunk or oversize line is required because of fire demand or supply and is not required for distribution purposes, such trunk or oversized line cost shall be financed by the City.~~

~~E. LIFT STATIONS~~

~~All newly developed properties whose sanitary sewage or storm water runoff must be elevated by a lift station in order to reach the Waste Treatment Plant or discharge point shall be assessed a lift station tapping fee equal to ten (10) percent of a normal sanitary sewer assessment.~~

~~F. WATER SERVICE OR FIRE LINES~~

~~— New service lines benefiting properties shall be assessed one hundred (100) percent of the cost, including those lines required or requested for fire protection purposes. Replacement service lines shall not be assessed and such replacement will be financed by the City through established water and sewer improvement methods (see Section III.F.2.) and no assessment will be levied against abutting property owners.~~



~~Service lines that are replaced for the purpose of increasing size and capacity shall be the responsibility of benefited properties, including the cost of repairing and resurfacing any streets that may be disturbed in the process.~~

~~Service lines less than forty (40) years old that were installed as part of a City public improvement project and must be replaced or repaired due to failure shall be the responsibility of the City. For the purposes of this section, a service line ends at the right-of-way line.~~

#### ~~G. STORM SEWERS~~

~~Storm sewer improvements shall be classified as storm sewer trunks and storm sewer laterals. Storm sewer drainage districts shall be determined by the City Engineer for the various projects and improvements as may be required.~~

~~1. Laterals: All storm sewer laterals, when constructed as an integral part of a street improvement, shall be included in the street improvement project cost and assessed in accordance with the policy for street improvement projects. In the event a storm sewer lateral is constructed without accompanying street improvements, the City may assess one hundred (100) percent of the cost of such improvement against the benefited property included in the improvement district with such costs assessed on either a square foot, linear foot, or unit basis.~~

~~2. Trunk Lines: One hundred (100) percent of the total cost of storm sewer trunk improvements shall be assessed against benefited property on an area basis. To determine runoff contribution and assessments in storm sewer districts with multiple zoning, the City shall take into consideration the maximum amount of hard surfacing (creating one hundred [100] percent storm water runoff) that can be allowed on any property.~~

#### ~~H. NEW STREET CONSTRUCTION~~

~~One hundred (100) percent of the costs of street (paving or any other street improvement) and curb and gutter improvements shall be assessed against benefited property, except as outlined hereafter. The costs of each improvement shall include costs of intersections and related drainage facilities. The number of front feet assigned to each property shall be the linear footage abutting (or benefited by) the street improvement, determined by measuring at the front of each property the distance between property lines. Irregular or odd-shaped lots shall be given an~~

average width.

This average width may be determined by using the average of the front and rear widths, an average of the other lots in the general area being improved, or a width based on average lot area or depth based on either the existing plat (if any) or the Zoning Ordinance.

— It shall be the policy of the City to assess residential properties only for the costs which would have incurred had a standard residential street specification been utilized. The City shall bear the responsibility for any cost exceeding that normal residential street cost, except that the City may assign all or a portion of its excess cost to non-residential properties abutting the street, if in the judgment of the City the existing or projected use of that property required the increased expenditure for the additional street construction requirements.

I. STREET RECONSTRUCTION

When the condition of a street surface has deteriorated to the point where excessive maintenance cost is incurred or will be incurred by the City, or a majority of abutting residents request an improvement, the Council may order a public hearing on proposed improvements for that street. If the Council, following the hearing, decides that improvements are necessary, it may elect to completely reconstruct the street and assess abutting property owners in a manner described as follows:

1. — Except as otherwise provided by State law, all classes of properties shall be assessed for seventy-five (75) percent of the total cost to reconstruct a street. This shall include commercial, industrial, residential, and tax exempt properties. It shall be the policy of the City to assess residential properties, regardless of actual street width, for an amount equal to those costs which would have been incurred had a standard forty (40) foot residential street been constructed. This cost shall be calculated annually based on current bid prices, and shall not include the cost of sidewalks, street lights, and trees. The City of Willmar shall bear the responsibility for any cost exceeding that normal residential street cost, except that the City may assign all or a portion of its excess costs to non-residential properties abutting the street if, in the judgment of the City, the existing or projected use of that property required the increased expenditure for the additional street construction requirements.
2. — Commercial, industrial, and tax exempt properties are to be assessed for all improved street frontages (i.e. a corner lot that is one hundred fifty [150] feet on one street side and fifty [50] feet on other street side would be assessed for one hundred fifty [150] feet when that side is improved and fifty [50] feet

when the other side is improved).

- ~~3. Apartment buildings with four (4) or more units are to be assessed for all improved street frontages in the same manner as no. 2 above.~~

J. ~~STREET OVERLAYS~~

~~The City may resurface or overlay a street. In this event, the City shall assume twenty-five (25) percent of the total cost of such improvement and assess the remaining seventy-five (75) percent of the cost to benefited property owners. The manner in which assessment amounts are determined shall be similar to that for the street reconstruction program.~~

~~An overlay is considered normal maintenance and does not fall under the assessment exemption or reduction of the "twenty (20)-year street life" policy.~~

K. ~~SIDEWALKS~~

~~All costs for installing sidewalk facilities may be assessed against abutting properties based on the same formula applicable to street or curb and gutter improvements.~~

~~City Ordered Sidewalk: In any case where a sidewalk is planned and constructed upon order by the Council, the cost of that improvement shall not be assessed unless such improvement shall be part of any development agreement.~~

L. ~~CALCULATING TAPPING FEES~~

~~Tapping fees are established by the Council and reviewed periodically to assure that amounts accurately reflect comparable assessment amounts for sewer and/or water during the most recent improvement project. If the most recent project has not been within the preceding twelve (12) month period, an inflation/deflation adjustment factor shall be considered when the fee is set. The estimated useful life of the improvement shall be considered when calculating each individual tapping fee, and the amount charged shall reflect the pro-rated fee based on useful life theory (see section VI.A.).~~

~~For property on which multiple residential units are constructed, the tapping fee shall include the initial amount for the first living unit, and, for each unit thereafter, an amount equal to twenty (20) percent of the initial amount or standard fee for a residential unit. The amount for additional units in a multiple family structure shall~~

~~be due the City regardless of previous assessments and shall be payable at the time the building permit is obtained. In no event shall the tapping fee exceed the cost of installing an eight (8)-inch water main based on current year prices multiplied by property front footage.~~

~~Remodeling projects which result in the number of living units in a structure being increased shall be subject to the tapping fee described above.~~

## **VI. LIFE EXPECTANCY OF IMPROVEMENTS**

A. IMPROVEMENT CLASSIFICATION

Watermain: The estimated useful life of watermain trunk facilities and lateral facilities shall be forty (40) years from the date of initial construction.

Sanitary Sewer: The estimated useful life of sanitary sewer trunk facilities and lateral facilities shall be forty (40) years from the date of initial construction.

Storm Sewer: The estimated useful life of a storm sewer system involving installation of pipe shall be forty (40) years from the date of initial construction.

Streets: The estimated useful life of a street shall be twenty (20) years from the date of initial construction; however, it is expected that overlay projects will be necessary within such estimated useful life period pursuant to the city's street maintenance program to extend the useful life of a street.

Street Lights: The estimated useful life of street lights shall be twenty (20) years from the date of initial construction.

Sidewalks: The estimated useful life of a sidewalk shall be twenty (20) years from the date of initial construction.

B. USEFUL LIFE APPLICATION

Street and Utility Facilities: When any municipal facility must be reconstructed or replaced, and that facility has provided a period of use equal to or more than the estimated useful life of a facility as hereinbefore described, all costs for such replacement or reconstruction shall be one hundred (100) percent assessed against benefited abutting properties as provided for in original construction proceedings, or except as outlined in Section IIIIV, paragraphs N., O., Q., and S.-C., F., I., and J. of this document.

Assessments for any public facility which must be reconstructed or replaced before the estimated useful life of the facility shall be multiplied by the percentage of useful life attained for the respective facility.

If failures are caused by changes in use, the Council may, at its discretion, assess one hundred (100) percent of the replacement cost to benefited properties.

## ~~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 by contract with the City.~~

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, except that a driveway may be installed at the expense of the property owner to the curb when approved by the City.~~





# ***CITY OF WILLMAR***

## ***COMPREHENSIVE ASSESSMENT POLICY***

Adopted: June 6, 1990  
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# **I. SPECIAL ASSESSMENTS IN 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 improvements.

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 (sub-base, base, hard surfacing), alleys, curb and gutter, sidewalks, driveway approaches, installation of water mains, sanitary sewers, storm sewers (including trunk lines), sewer and water service lines, and street lights.

C. THE BENEFIT PRINCIPLE

Special assessments may be levied only upon property receiving a special benefit from the improvement to the extent of the special benefit, as measured by the increase in market value to the benefited property attributable to the improvements. 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.

## **II. GENERAL STATEMENTS OF PURPOSE, POLICY, AND LIMITS**

A. PURPOSE

The purpose of this Special Assessment Policy 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 Willmar (hereinafter called "City") pursuant to the law, the City Charter, and the order of the City Council (hereinafter called "Council") of the City of Willmar. These policies shall serve as a guide for this and future Councils, for administrative personnel, and as a source of information 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 improvements of streets, sidewalks, curbs, gutters, and utilities within the City.

B. POLICY

The Council hereby declares:

That the assessment policies contained herein are the policies that the City is dedicated to follow, as nearly as possible and practical; and

- (1) A percentage of all improvement costs shall be assessed against benefited property according to the special benefit principle where the amount assessed may not exceed the value of the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements; and
- (2) 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.

C. LIMITS

These assessment policies are designed to serve only as a general guide for the 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 which may occur in the future, or if such variance is deemed to be in the best interest of the City.

**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 unit 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 the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements. Project cost may include part or all of the cost of previously installed projects, not previously assessed, subject to legal considerations.

It shall be the policy of the City to assess benefited properties by linear foot of frontage on a right-of-way within which the public improvement project is constructed, area, or by unit, whichever is determined by the City to be the most equitable and appropriate. All facilities which represent new service to areas previously without City utility service shall be assessed at the rate of one hundred (100) percent of the cost of installation.

B. ASSESSMENT PERIOD

The standard term of assessment for public improvements shall be ten (10) years. The Council may, however, establish a shorter or longer term if it is determined to be in the best interests of the City. In no event shall the term exceed a period of twenty (20) years.

C. INTEREST RATE

Unless otherwise determined by the Council in its discretion, the interest rate to be paid on the unpaid balance of special assessments shall be set at the rate that is two-three percent higher than the interest rate on the bonds sold by the City to finance the City's share of the improvements.

D. PROJECT COST

The City Council shall determine the total cost of the improvement by adding: the amount of contract cost; the cost of labor and materials furnished by the City, if not contained in contract costs; the cost of engineering, legal, fiscal, and administrative services provided by City staff or other parties; the cost of acquiring easements, property, or right-of-way required by the improvement; interest costs incurred by the City between the time money is borrowed for the improvement and special assessments are paid in full; and any other costs which, in the opinion of the Council, should be included as part of the total project cost.

E. CITY SHARE OF PROJECT COST

Generally speaking, the City shall not participate in project costs for new developments. 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 a 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, except as outlined in paragraph "H" of this section.

The City will participate in the cost of street reconstruction projects. Assessments to benefited residential property owners under a reconstruction program shall be determined by establishing the total cost of reconstructing a standard residential street, including but not limited to replacing curb, gutter, and sidewalk, and sanitary sewer, water and storm sewer mains, as applicable, and assessing a percentage of the total cost of the project to the benefitted properties according to the special benefit principle. Any costs directly attributable to over-sizing may be paid fully or partially by the City and/or commercial or industrial properties requiring the over-sizing.

F. DRIVEWAY PAVEMENT

Driveway pavement required to be removed for construction of the improvements shall be replaced with standard bituminous or concrete. The costs associated with removal and replacement shall be incorporated into the total project cost and assessed accordingly. The affected property owner(s) may request a decorative replacement or other betterment for any disturbed driveway aprons but will be assessed one hundred (100) percent of the additional expenditure attributable to the betterment. Nothing herein shall obligate the City to install such decorative replacement or other betterment.

G. PRIVATE DEVELOPER PROJECTS

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 completed by the developer pursuant to a development agreement with the City.

The following provisions shall apply to new development projects:

- a. Except as otherwise approved by the city council, the developer shall be required to construct and pay the full cost of all public improvements within a new development project.
- b. The developer may petition for construction of certain public improvements to be done by the city, which may be approved in the discretion of the city council.
- c. In any project which includes a major street or trunk utility, the developer must petition the city if the developer wants the city to construct such improvements pursuant to Minn. Stat. ch. 429; the city will not undertake such construction simply by contractual arrangement with the developer.
- d. The cost of any such improvements constructed by the city shall be assessed entirely to benefited properties within the project area except to the extent that such improvements benefit property outside the project area. Assessments to the project area will normally be allocated by the front foot method; however other methods may be utilized if conditions warrant as recommended by the city engineer. The developer may be required to sign an agreement of assessment and waiver of appeal rights pertaining to the cost of such improvements.
- e. Where the developer constructs and generally pays for the public improvements in a project, the city council may agree to pay part of the cost of the improvements where part of the cost is attributable to benefits outside the project area. The city's share of such costs shall come from any available source as designated by the council. Nothing in this article shall prevent the city from assessing such costs to other properties benefited by the subject improvements at some future time.
- f. The city retains the right to refuse financial participation in any public improvement project if, in the opinion of the city council, the project is not necessary, feasible and cost effective.

H. GOVERNMENT-OWNED PROPERTIES

Government property owners shall be responsible for assessments associated with new developments and/or reconstruction projects to the maximum extent permitted by law.

I. FRONTAGE ROADS

Frontage roads along highways or other arterial streets are generally deemed to be of benefit only to properties served; therefore, the cost of the improvement will be

assessed to the maximum extent consistent with the special benefit principle to the property owners. The Council may consider special circumstances as appropriate to determine and adjust benefit and 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, or storm drainage facilities be made by any development on that property, unless and until an assessment (and/or connection fee) is adopted and certified for collection on the basis as aforementioned for property lying outside the City limits.

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 attempt to negotiate a contract with the owner of such property, which will provide for payment to the City on the same basis as if the property were within the City, and assessed for the improvement as a prepayment upon completion of the project. No physical connection to the City's sanitary sewer or water main trunk line systems will be permitted until a utility agreement and contract, including satisfaction of costs or assessments, is executed. To the greatest extent possible and practical, it shall be the policy of the City to require annexation prior to the extension of any service or facility to any property outside the City limits.

L. LATERAL EQUIVALENT

When a trunk water distribution line, sanitary sewage collection (or trunk) line, or storm sewer trunk line which also provides service to abutting properties through service laterals or other means must be constructed in an area and oversized for design purposes to serve a larger area beyond the properties receiving such lateral benefit, the project costs attributable to serving such larger area shall be financed by the City through established water and sewer improvement methods and shall not be assessed against abutting properties.

M. TRUNK SANITARY SEWERS

In the event oversized or trunk lines are not required in an area but are necessary to provide adequate service and capacity for areas beyond the specific area in question, the oversized or trunk line (\*) share of the cost (the amount in excess of lateral costs) shall be assumed by the City. This policy, however, shall not prevent the City from assessing properties that receive a special benefit from such project or creating special trunk line assessment districts if deemed advisable and proper in any particular situation.

(\*) Normally eight (8) inches or larger in residential areas.

N. NEW SANITARY SEWER/WATER MAIN LATERALS

One hundred (100) percent of the cost of new water and sewer lateral improvements, including mains and service lines, shall be assessed against benefiting, adjacent properties on a unit basis.

O. WATER SERVICE OR FIRE LINES

New service lines benefiting properties shall be assessed one hundred (100) percent of the cost, including those lines required or requested for fire protection purposes.

P. NEW STREET CONSTRUCTION

One hundred (100) percent of the costs of new street (paving or any other street improvement) and curb and gutter improvements shall be assessed against benefited property, except as outlined hereafter. The costs of each improvement shall include costs of intersections and related drainage facilities. The number of front feet assigned to each property shall be the linear footage abutting (or benefited by) the street improvement, determined by measuring at the front of each property the distance between property lines. Irregular or odd-shaped lots shall be given an average width.

This average width may be determined by using the average of the front and rear widths, an average of the other lots in the general area being improved, or a width based on average lot area or depth based on either the existing plat (if any) or the Zoning Ordinance.

It shall be the policy of the City to assess residential properties only for the costs which would have incurred had a standard residential street specification been utilized. The City shall bear the responsibility for any cost exceeding that normal residential street cost, except that the City may assign all or a portion of its excess cost to non-residential properties abutting the street, if in the judgment of the City the existing or projected use of that property required the increased expenditure for the additional street construction requirements.

Q. STREET RECONSTRUCTION

If the Council elects to completely reconstruct a street, it shall, assess abutting property owners as follows:

1. Except as otherwise provided by State law, all classes of properties shall be assessed a percentage of the total cost to reconstruct a street on a front footage basis according to the special benefit principle where the amount assessed may not exceed the value of the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements. This shall include commercial, industrial, residential, and tax exempt properties.

R. INTERSECTIONS

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

S. STREET OVERLAYS

The City may resurface or overlay a street. In this event, the City shall assess a percentage of the total cost of such improvement to benefited property owners on a front footage basis according to the special benefit principle where the amount assessed may not exceed the value of the special benefit of the improvements to the assessed property as measured by the increase in market value to the benefited property attributable to the improvements. The manner in which assessment amounts are determined shall be similar to that for the street reconstruction program.

An overlay is considered normal maintenance and does not fall under the assessment exemption or reduction of the "twenty (20)-year street life" policy.

T. SIDEWALKS

All costs for installing sidewalk facilities may be assessed against abutting properties based on the same formula applicable to street or curb and gutter improvements.

U. IRREGULAR SHAPED LOTS

1. Corner lots. The assessable footage assigned to corner lots for purposes of calculating assessments for street reconstruction, including repair or replacement of curb, gutter, sidewalk, and storm sewer, or street overlays, shall be 100 percent of the length of the property's shorter frontage, or if the length of frontage on both streets abutting the corner lot is equal, the side on which the utility service connections are located, and 30 percent of the lot's longer frontage, or if the length of frontage on both streets is equal, the side on which the utility service connections are not located. The assessable footage assigned to corner lots for purposes of calculating assessments for repair or replacement of sanitary sewer, or water mains shall be 100 percent of the length of the property's frontage on which the utility service connections are located. Corner lots shall not be assessed for repair or replacement of sanitary sewer, or water mains within a right of way abutting the corner lot if there are no utility service connections from the corner lot to such sanitary sewer, or water or mains.
2. Double-frontage lots. The assessable footage assigned to lots other than corner lots with frontage on more than one right-of-way for purposes of calculating assessments for street reconstruction, including repair or replacement of curb, gutter, sidewalk and storm sewer, or street overlays, made within such rights-of-way shall be 100 percent of the length of the property's frontage on which the utility service connections are located and 30 percent of the length of the property's frontage on which the utility service connections are not located. The assessable footage assigned to lots other than corner lots with frontage on more than one right-of-way for purposes of calculating assessments for repair or replacement of sanitary sewer, or water mains shall be 100 percent of the length of the property's frontage on which the utility service connections are located. Properties with multiple frontages shall not be assessed for repair or replacement of sanitary sewer, or water mains within a right of way abutting the property if there are no utility service connections from the property to such sanitary sewer, or water mains.
3. Others. For lots that are of irregular shape, such as those on a cul-de-sac, the assessment shall be determined by the City on a comparative basis to

units or areas with regular shaped properties in the immediate proximity or project area. A lot may be considered irregular if it is not rectangular in shape. For residential properties which do not meet the minimum lot width as specified in the Willmar Zoning Ordinance, the reconstruction assessment shall be based on a lot frontage of at least fifty (50) feet.

V. TAX FORFEITED PROPERTIES

Properties which have been forfeited to the State for nonpayment of taxes are subject to possible reassessment. The policy of the City is that the entirety of the unpaid principal balance of any assessments against such properties at the time of tax forfeiture will be reassessed with interest following the County's resale of any such tax forfeited property to a third party. These assessment terms and conditions may be modified on a case-by-case basis only if there is variation in the sale price established by the County.

W. ALLEYS

Improvements to alleys will be assessed to benefited property owners for one hundred (100) percent of the cost. Exceptions will include routine maintenance as determined by the City Engineer.

X. DEFERRED SPECIAL ASSESSMENTS

1. Hardship Deferments.

The City may, in its discretion, defer assessments against property owned by certain senior citizens, people with disabilities, and members of the military in accordance with Minn. Stat. § 435.193 and City Code § 5-89. The Council may limit the deferment to one (1) year or to a limited period of years, and may require regular verification by the applicant of the continuation of the exceptional and unusual circumstances that justify the deferment. A hardship deferment shall end and all accumulated amounts (including applicable interest, if any) become due:

- a. Upon the death of the owner if the spouse is not otherwise eligible for deferment;
- b. Upon the sale, transfer or subdivision of any part of the property;



- c. Upon loss of homestead status; or
  - d. Upon the council's determination that immediate or partial payment would impose no hardship.
2. Unimproved Property. It shall be the policy of the City to defer assessments against unimproved property as permitted by Minn. Stat. § 429.061, subd. 2 and City Code § 5-89. Payment of the first installment of any assessment levied upon unimproved property may, at the Council's discretion, be deferred until a designated future year or until the platting of the property or the construction of improvements thereon.
  3. Green Acres. It shall be the policy of the City to defer assessments against those lands which qualify for deferment under the Minnesota Agricultural Property Tax Law ("Green Acres" Law), Minn. Stat. § 273.111, as amended.
  4. Interest Rate. All amounts deferred under any of the above programs shall bear interest at the rates established by the Council in the resolution in which the assessment was imposed. The policy of the Council is to defer such interest with the principal unless otherwise specified in the resolution granting the deferment. The Council may also, in the resolution imposing the assessment, forgive interest during the period assessments are deferred. All deferred assessments, including terms and conditions, must be established at the time of adoption of the assessment roll.

## **IV. PROCEDURES**

A. INITIATION OF PROCEDURES

1. By Petition: A petition for improvement by property owners may initiate proceedings. Said petition must have the signature of the owners of at least thirty-five (35) percent of the frontage of the property bordering the proposed improvements. The Council retains full discretion to determine whether to proceed to order such improvements and the timeline for such project, if ordered.
2. By Council Action: If the Council determines that an improvement is in the best interest of the City, it can without petition order an improvement. If the Council acts on its own initiative, an extraordinary majority is not necessary to initiate the proceedings.
3. 100% Signed Petition: When a petition is signed by one hundred (100) percent of the property owners affected by an improvement, the Council may order said improvement without holding an improvement hearing. This can be accomplished by special resolution.

B. PREPARATION OF A REPORT

The City Council shall order an improvement report from the City Engineer which reviews such factors as the need for the project, the availability of City funds, an estimate of total project costs, and other information necessary for the Council to make a decision.

C. PUBLIC HEARING

With the exception of the one hundred (100) percent signed petition, the City shall publish notice of the hearing twice in the official newspaper, with the notices appearing at least one (1) week apart. At least three (3) days must elapse between the last publication date and the date of the hearing. A notice shall be mailed to each affected property owner at least ten (10) days prior to the hearing date stating hearing date information, proposed improvements, and estimated costs.

D. ORDERING THE IMPROVEMENT AND PREPARATION OF PLANS

If improvement proceedings are initiated by petition, the Council needs a simple majority to pass a resolution for improvement. If the Council initiated the proceedings, it will require a four-fifths (4/5) majority to adopt an improvement

resolution. The Council will then direct the City Engineer to prepare plans and specifications, followed by a call for bids.

E. PREPARATION OF PROPOSED ASSESSMENT ROLLS

Assessment rolls are administered by the office of the City Clerk. Rolls will be prepared for each project involving assessments to benefited properties, and are to include parcel identification numbers and estimated assessment costs.

F. PUBLIC HEARING ON THE PROPOSED ASSESSMENT

The assessment hearing is designed to give affected property owners an opportunity to express their concerns. The City must publish notice of the hearing, including the total cost of the improvement, in the official City newspaper one or more times at least two (2) weeks prior to the hearing date. The City will also mail a statement showing possible prepayment provisions, and the interest rate on the assessments if they are to be paid in installments.

G. APPROVAL AND CERTIFICATION OF ASSESSMENT ROLLS

Following the hearing, the assessment roll shall be officially adopted by the Council and certified to the County Auditor. All adjustments to the roll shall be made by contacting the City Clerk prior to the hearing, or by the Council at the time of the hearing. The assessments will be levied in equal annual principal installments with interest set by the Council on the unpaid balance.

H. PREPAYMENTS

After the adoption of the assessments, the City shall certify the assessment roll with each installment, including interest, to the County Auditor for collection. All assessments and interest thereon shall be collected and paid over in the same manner as other municipal taxes. The owner of any property so assessed may, at any time prior to certification of the assessment or the first installment thereof, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption thereof; and, except as hereinafter provided, the owner may at any time prior to November 15 of any year, prepay to the City the whole assessment remaining due with interest accrued to December 31 of the year in which said prepayment is made. The City shall accept partial

prepayment of assessments prior to certification of the assessment or the first installment thereof to the County Auditor. Thereafter the owner of any property so assessed may make one partial payment per calendar year on the assessment balance if the partial payment is equal to or greater than \$1,500.00.

## **V. LIFE EXPECTANCY OF IMPROVEMENTS**

A. IMPROVEMENT CLASSIFICATION

Watermain: The estimated useful life of watermain trunk facilities and lateral facilities shall be forty (40) years from the date of initial construction.

Sanitary Sewer: The estimated useful life of sanitary sewer trunk facilities and lateral facilities shall be forty (40) years from the date of initial construction.

Storm Sewer: The estimated useful life of a storm sewer system involving installation of pipe shall be forty (40) years from the date of initial construction.

Streets: The estimated useful life of a street shall be twenty (20) years from the date of initial construction; however, it is expected that overlay projects will be necessary within such estimated useful life period pursuant to the city's street maintenance program to extend the useful life of a street.

Street Lights: The estimated useful life of street lights shall be twenty (20) years from the date of initial construction.

Sidewalks: The estimated useful life of a sidewalk shall be twenty (20) years from the date of initial construction.

B. USEFUL LIFE APPLICATION

Street and Utility Facilities: When any municipal facility must be reconstructed or replaced, and that facility has provided a period of use equal to or more than the estimated useful life of a facility as hereinbefore described, all costs for such replacement or reconstruction shall be one hundred (100) percent assessed against benefited abutting properties as provided for in original construction proceedings, or as outlined in Section III, paragraphs N., O., Q., and S. of this document.

Assessments for any public facility which must be reconstructed or replaced before the estimated useful life of the facility shall be multiplied by the percentage of useful life attained for the respective facility.

If failures are caused by changes in use, the Council may, at its discretion, assess one hundred (100) percent of the replacement cost to benefited properties.