

**CITY OF BEMIDJI  
MINNESOTA**



**PUBLIC IMPROVEMENT  
AND  
ASSESSMENT POLICY**

**ADOPTED  
BY CITY COUNCIL ON**

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**CITY OF BEMIDJI, MINNESOTA  
PUBLIC IMPROVEMENT AND ASSESSMENT POLICY**

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# **CITY OF BEMIDJI, MINNESOTA**

## **PUBLIC IMPROVEMENT & ASSESSMENT POLICY**

### **INTRODUCTION**

The City of Bemidji, as a political subdivision of the State of Minnesota, shares in the responsibility vested in government to provide for "the security, benefit and protection of the people". One manner of promoting this goal is to make improvements such as streets, sewers and water systems. State law authorizes cities to make a variety of public improvements, and to finance the cost of the improvements in several ways - most notably by imposing special assessments against the properties benefited.

The Policies for Public Improvements have been developed and adopted by the City of Bemidji to provide a statutory guide for use in determining the methods in which the costs of public improvements may be assessed against benefited properties. These policies provide both the manner in which the benefits are to be measured and the process by which the costs are to be apportioned. These policies have been developed in accordance with Minnesota Statutes, Chapter 429, which relates to local public improvements.

It is intended that this policy shall be applicable to all lands within the City, platted or unplatted, and shall be complementary to the Bemidji City Code, as amended.

In the event the literal application of the provisions outlined herein would result in an inequitable distribution of special assessments, the City Council may adjust the policies so as to achieve a more equitable distribution.

## **SECTION I. GENERAL POLICIES**

### **A. Initiation of Public Improvement Projects:**

Before December 31st of each year, the City Manager shall present to the Council a coherent capital improvement program for the coming year. This improvement shall be based on:

- Petitions from citizens for specific improvements.
- Requests from the City Council for specific improvements.
- Improvements that are needed for the benefit of the City as a whole.
- Improvements needed for the benefit of specific areas that lend themselves to improvement districts, i.e., drainage areas.
- Improvements needed to carry out the provisions of the capital improvement program previously approved by the Council.

The Council, shall as early as possible, hold public hearings on specific projects as required and shall order in that portion of the program that is in the interest of the City. Subsequent petitions and requests for improvements to be done in that year shall be referred to the following year unless the Council determines that there is an urgent need and that it is in the interest of the City to supplement that year's program.

### **B. Summary of Assessment Procedures**

Where an improvement is constructed which is of special benefit to the properties within a definable area, it is the intent of the City Council that special assessments be levied against the benefitted properties within that area to the extent that the costs of such project can be deemed to benefit the properties. The following is a summary of the procedure to be used for special assessments:

- Initiation of proceedings. The proceedings may be initiated by the Council or by a petition of affected property owners.
- Preparation of a feasibility report on the improvement. The City Engineer will prepare a report on the proposed improvement. The report will include the estimated cost of the proposed improvement, and whether it is necessary, cost-effective, and feasible.
- Notice of the public hearing on the improvement. The City will publish notice of the public hearing to consider the proposed improvement. It must be published twice with the notices appearing at least one week apart, and at least three days must elapse between the last publication and the date of the hearing. The City will also mail notice to each property owner in the proposed assessment area at least 10 days prior to the hearing.
- Public hearing on the improvement. A hearing will be held to give interested people a chance to voice their concerns, whether or not they are in the proposed assessment area. When a petition signed by 100 percent of the landowners requests the improvement, the Council may waive the hearing and order the improvement.
- Ordering the improvement and preparation of plans. If the Council began proceedings because of a petition signed by the owners of at least 35 percent of the property

abutting the improvement, the Council may pass a resolution to order the improvement with a majority vote. However, if the Council initiated the proceedings, a five-sevenths majority vote of the Council is needed to pass the resolution. After the resolution is passed, the City Engineer will prepare the necessary plans and specifications. The Council will decide how the improvement will be done and, if necessary, issue a call for bids.

- Issuance of obligations to finance the improvement. The Council will determine the appropriate manner in which to finance the improvement.
- Preparation of the proposed assessment roll. The City Clerk and the City Engineer will calculate the proper amount to be specially assessed against each property that will benefit from improvement. The proposed assessment roll will be available for public inspection in the City Clerk's office.
- Notice of the public hearing on the proposed assessment. The City will publish notice of the hearing in the City newspaper at least once, and not less than two weeks prior to the hearing. The notice will include the following information:
  - ◆ Place, time, and date of the hearing
  - ◆ Overall project description
  - ◆ Total cost of the improvement
  - ◆ Area to be assessed
  - ◆ Description of appeals procedure
  - ◆ Any deferment options

The City will also mail notice of the hearing to each property owner at least two weeks prior to the hearing date. The mailed notice will contain the following:

- ◆ Amount of the assessment for the individual parcels
  - ◆ Possible pre-payment provisions
  - ◆ Interest rate on the assessments
- Public hearing on the proposed assessment. A hearing will be held to give affected property owners an opportunity to express their concerns on the actual special assessment levy.
  - Approval and certification of assessment rolls. Following the public hearing, the Council will approve the assessment rolls in their final form so that the Clerk can certify them to the County Auditor. If the adopted assessment differs from the proposed assessment, the Clerk will mail the property owner notice of the new amount.
  - Levying and collecting assessments. The Clerk will certify the assessments to the County Auditor, either by certifying the entire assessment roll all at once, or by certifying each yearly amount annually.

C. Assessment Policies Applicable to all Improvements:

The following general policies shall apply to all types of improvements, and shall be used as a basis of the City's assessment policy:

1. The "project cost" of an improvement shall be deemed to include the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing, and other contingent costs.
2. Where the project cost of an improvement is not entirely attributable to the need for service to the area served by said improvement, or where unusual conditions beyond the control of the owners of the property in the area served by the improvement would result in an inequitable distribution of special assessments, the City, through the use of other funds, will pay such "City cost" which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served.
3. If financial assistance is received from the federal government, the State of Minnesota, or any other source to defray a portion of the costs of a given improvement, and provided such assistance is not constrained as to its specific application, it will be used first to reduce the "City cost" of the improvement. If the financial assistance received is greater than the normal "City cost," the remainder of the aid will be used to reduce the special assessments against the benefiting properties, such reductions to be applied on a pro-rata basis.
4. City-owned properties, including municipal building sites, parks, and playgrounds, but not including public streets and alleys, shall be regarded as being assessable on the same basis as if such property was privately owned.
5. The term "lot" as used in this policy statement shall be defined as follows:
  - a) A single platted lot, or a fraction of single platted lot, individually owned and used.
  - b) A combination or more than one platted lot which can be shown to provide only one buildable site in accordance with the provisions of the City's zoning ordinance.
  - c) Any unplatted parcel of property.
6. The Council may hold the assessment hearing and adopt the assessment roll prior to, or following, the installation of public improvements. If the assessment roll is adopted prior to the installation of public improvements, then, in that case, the Council may waive interest payments thereon for the period between the date of adoption of the assessment roll and December 31st of the same year.

At the time the assessment roll is adopted, the Council shall determine the interest rate and term for the assessment. It is the Council's intent to charge an interest rate that is approximately one **half** percent (**1/2%**) above the City's cost or the City's estimated cost of borrowing money for the project. The term of the assessment shall be 15 years with equal annual payments.

7. After the adoption by the City Council of the assessment roll in any local improvement, the owner of any property so assessed may, at any time, prior to certification of the assessments to the County Auditor, pay the whole amount due. No interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment roll. At any time thereafter, after certification to the County Auditor, the entire amount of the assessment remaining unpaid may be paid to the Bemidji City Clerk with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 30 or interest will be charged through December 31 of the succeeding year.
8. The City Council may defer the payment of an assessment for any homestead property owned by a person 65 years or older, or retired by virtue of a permanent and total disability, for whom it would be a hardship to make the payment (Minnesota Statutes 435.193, 435.194). The City Council may defer payment of special assessments for military persons (Minnesota Statutes 435.193). Application for deferment is to be made within 30 days after the adoption of the assessment roll by the Council on a form provided by the City Clerk. The Council will either grant or deny the application within 30 days of its receipt. If granted, the City Clerk will then notify the County Recorder of the deferment.

In accordance with Minnesota Statutes Section 435.195, the option to defer the payment of special assessment shall terminate and all amounts of accumulated plus applicable interest shall become due upon the occurrence of any of the following events:

- 1) The death of the owner (if the spouse is not otherwise eligible for the deferment);
  - 2) The sale, transfer, or subdivision of any part of the property;
  - 3) Loss of homestead status of the property; or
  - 4) Determination by the Council that requiring immediate or partial payment would impose no hardship.
9. When a tract of land against which an assessment has been levied is divided or subdivided, the Council may, on application of the owner or on its own motion, equitably apportion the remaining installments of the assessment between the various lots. The Council shall do so if it determines that the apportionment will not materially impair collection of the unpaid balance of the original assessment. Notice of this reapportionment and of the right to appeal shall be mailed to or personally served upon all owners of any part of the tract. Those owners will have thirty days to file an appeal in District Court if they disagree with the apportionment.
  10. Where any tract of land has not been assessed for any existing abutting sanitary sewer and/or water and has been excepted from the levy for the same, no permit shall be granted to connect such tract of land with the city sanitary sewer and/or water except upon payment of a connection charge equal to the assessment previously established for that project area. Property owner(s) may request that the connection charge be assessed up to fifteen (15) years against the property at one-half (1/2) percent over the current bond rate.

## **SECTION II. SURFACE IMPROVEMENTS & STREET RECONSTRUCTION PROGRAM**

Surface improvement shall include street reconstruction, sidewalks, curb and gutter, surfacing, and ornamental street lighting.

### **A. Standards for Surface Improvements:**

In all streets, prior to street construction and surfacing, or prior to resurfacing, all utilities and utility service lines (including sanitary sewers, water lines, gas and electric services) shall be installed to serve each known or assumed building location to the extent possible. No surface improvements to less than both sides of a full block of street shall be approved, except as necessary to complete the improvement of a block which has previously been partially completed. Concrete curbing or curb and gutter, along with storm sewer as appropriate, shall be installed at the same time as street surfacing, except that where a permanent "rural" street design is approved by the City Council, curbs and/or storm sewer will not be required.

Existing sidewalks that are deficient shall be replaced as part of the city's street renewal program. Areas without sidewalks and/or pedestrian/bike trails shall be evaluated by the City Engineer in order to determine the feasibility of adding these facilities to the proposed project.

### **B. Assessment Policy for Improvements:**

The City must have a standard method for applying its levied special assessments to lots and/or parcels within the City. Without a standard method and formula, special assessments may not be applied consistently, fairly, and uniformly and could result in an undue number of appeals.

It is recognized that this policy cannot be applied indiscriminately and variations are permitted when strict adherence to the policy obviously violates the special benefit principle. Such changes will be brought to the City Council for approval.

#### **1. Street Assessments**

Street assessments for the **City's Street Reconstruction Program** will be against abutting property on a front foot basis. However, modifications may be necessary to provide for equity and minimum and maximum assessment for parcels.

The assessment to be applied against each property shall be \$38.00 per front foot. This amount may be adjusted annually by the City Council.

#### **2. Special Cases**

a) Corner Properties: Corner properties will be assessed for each side that abuts an improvement. The assessable frontage shall be equal to 50% of the dimensions of the side(s) abutting the project.

b) Streets on Three Sides: If the property in question is bounded by streets on three sides, the corner property provisions will apply with a maximum of two sides assessed.



- c) Streets Front and Back: If a property faces on one street and backs onto another, it shall only be assessed for the street toward which the lot fronts. The assessment shall be based on the full frontage of the lot.
- d) Streets on Four Sides: The corner lot provisions will apply with a maximum of two sides assessed.

3. Alleys

On all alley paving projects, the total costs shall be charged as special assessments to the benefitted properties.

4. Sidewalks

The following provisions shall apply on new sidewalk installation projects in developed areas:

- a) If the sidewalk improvement is initiated by the City, the entire cost of the improvement shall be charged as "City cost."
- b) If the sidewalk improvement is initiated by request or petition of affected property owners, then one-half (1/2) of the total cost of the project shall be charged as "City cost" and the remaining one-half (1/2) of the total shall be charged as special assessments.
- c) All sidewalks required for development approval shall be paid for by the developer/property owner.

**SECTION III. SUBSURFACE IMPROVEMENTS**

The following general provisions shall be used in distributing the costs of subsurface improvements:

- a) If the improvement is accomplished as required by the subdivision regulations of the City, the entire costs of the current improvements, plus applicable "system charges" shall be paid by the developer.
  - 1) On water main, sanitary sewer or storm sewer construction within a subdivision, the City may request that the size of mains be upsized to provide for future use or connection. Provided that the size requested by the City is larger than the size of mains required to provide complete water service (including firefighting potential as recommended by nationally recognized standards) or sewer service to the subdivision, the costs for oversizing such mains shall be regarded as "City cost".
- b) If the utility improvement is accomplished in an area where no city utilities currently exist, the following provisions shall apply:

- 1) All properties benefitting from the proposed utility installation shall be assessed. Assessments shall be determined by the city engineer and approved by the City Council.
  - 2) The costs for oversizing a water main or sanitary sewer main beyond that required to provide complete service to the directly benefitted area shall be a City Cost.
- c) On projects which involve the reconstruction or replacement of existing sewer or water mains, there will be no assessments for the utility main replacements with the following exceptions.
- 1) Any property that has an existing water or sanitary sewer service line that does not meet current plumbing codes or engineering standards shall have the service line replaced by the city as part of the project from the main to the property line. The cost of this replacement shall be assessed to the property owner.
  - 2) Any property that requests additional service lines or upsized service lines shall have the cost assessed to the property.
- d) The Council, at its discretion, may authorize the assessable costs of a subsurface improvement to be paid as a "hook-up charge", rather than a direct assessment against the benefitted property, to be paid at the time the connection to the improvement is made.
- e) Because of existing on-site and functioning individual sewage treatment systems, some properties may not need to immediately connect to the sanitary sewer system. In these cases, the property owner may defer connection to the sanitary sewer system according to the following schedule:

AGE OF SYSTEM	LENGTH OF DEFERRAL
Over 15 years	0 years
12-15 years	3 years
8-11 years	7 years
4-7 years	11 years
3 years or less	15 years

This deferral is only applicable to existing on-site systems that are compliant with state and city regulations (MPCA Rules 2080-7084). The assessment for the improvements are **not** deferred, just the requirement to connect to the city system.

In order to qualify for a "connection" deferral, the property owner must make a written request for deferral to the City Clerk, and must attach a copy of any appropriate documentation establishing the installation date, age of the existing on-site sanitary sewer system and/or system certification documentation. At the end of the deferral period, connection to the sanitary sewer system will be

required.

- f) Properties may continue to use a private well until such time as connection to the sanitary sewer system is required. Connection to the municipal water system is also required when the well fails. No new well may be drilled to serve properties that are served by the municipal water system. Existing wells may continue to be used for private irrigation, provided that there is no interconnect to the internal property plumbing system. Inspection by the City may be required.