SPECIAL ASSESSMENT AND IMPROVEMENT POLICY
CITY OF OWATONNA
(Adopted by the City Council on September 1, 1981)
(Revised April 2, 2012 and January 8, 2013)
"OUR POLICY"

SECTION I: GENERAL

A. INTRODUCTION

A local improvement project is a project involving the construction of one or more of the following types of improvements, on which part or all of the cost is to be assessed to benefitting properties:

1. Street Pavement
2. Curb and Gutter
3. Driveway Pavement
4. Sidewalks
5. Retaining Walls
6. Street Grade and Gravel
7. Sanitary Sewer
8. Storm Sewer/Sump Pump Main
9. Water Main
10. Utility Service Laterals

Minnesota Statutes, Chapter 429, regulates the procedure for the construction and financing of local improvement projects when at least part of the cost is defrayed by special assessments against benefitted properties. When an improvement is constructed which is of special benefit to certain areas, it is the intent of the City Council that special assessments be levied against the benefitted properties within that area.

The objectives of this special assessment policy are to promote orderly development, to ensure fair and equitable treatment of benefitting properties and to assure that the City's financial resources are protected.

B. INITIATION OF PUBLIC IMPROVEMENT PROJECTS

1. Petition

   Public improvement projects may be initiated by petition of affected property owners. Such petitions shall be received by the City Engineer on or before August 1 for construction in the following year. Petitions for public improvements submitted after August 1 shall be received and acted upon during that year only by special consent of the City Council, or shall be acted upon the following year.

   If the City Council chooses to proceed with an improvement based on a petition, the petition must have the signatures of the owners of at least 35 percent in frontage of the property bordering the proposed improvements.

2. Council Action
   Public improvements may also be initiated by the City Council when, in its opinion, such action is required.
3. New Developments
   Minimum improvements required in new additions are street grading and surfacing, sanitary sewer, storm sewer, water main and utility service laterals stubbed into the boulevard. These improvements shall be constructed in conformance with City requirements and paid for entirely by the developers.

The City of Owatonna will not provide public improvements or extension of utility service beyond the City limits of the City of Owatonna for the purpose of service to properties lying outside of the City, except by special approval of the City Council.

C. SERVICE LIFE OF IMPROVEMENTS
   Public improvements are judged to have normal usable life expectancies. For the purpose of this policy, this life expectancy shall be as follows:

   1. Surface Improvements:
      a. Grade and Gravel – no limit
      b. Concrete Pavement – 40 years
      c. Concrete Curb and Gutter – 30 years
      d. Plant Mix Bituminous – 25 years
      e. Sidewalk – 20 years
      f. Retaining Walls – 20 years

   2. Subsurface Improvements:
      a. Sanitary Sewer – 40 years
      b. Storm Sewer/Sump Pump Main – 40 years
      c. Water Main – 40 years

When any existing improvement is ordered to be renewed, repaired or replaced, the assessments to be levied therefore will be the proportionate share of the costs based on the ratio of the age of the improvements to the adjudged usable life expectancy.

D. ASSESSMENT POLICIES APPLICABLE TO ALL TYPES OF IMPROVEMENTS
   Where an improvement is constructed which is of special benefit to 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 general principles 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.

      a. If a surface improvement is accomplished as required by the subdivision regulations of the City, the entire cost of the

improvement shall be assessable against properties within the subdivision served with the exception that in a residential area, the “City cost” shall be equal to the increased cost for constructing a street to arterial or collector design standards in lieu of construction to residential design standards. Provided, also, that in commercial or industrial subdivisions, the increased cost of constructing a street to arterial standard in lieu of construction to the collector design standard required to serve such subdivision shall be assumed as “City cost”.

b. If a subsurface 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 assessable against properties with the subdivision served with the certain exceptions stated in Section III B. 3.

c. In cases where the City Council determines that the assessable costs would be more equitably distributed (including those instances where agreement can be reached between the City and the developer of a subdivision), the assessable unit may be the “lot” (i.e.- a uniform “per lot” assessment).

3. Where a current improvement is installed as an extension of any existing improvement in which the City, through the use of sources other than special assessments, has participated in the costs of such existing system, and where the area served by such current improvement can be shown to benefit directly from the City’s prior expenditures, the special assessments levied against the properties served by the newly extended improvement shall include a “system charge” equal to that portion of the City’s prior expenditures which, in the opinion of the City Council, are chargeable to the area served by the current extension. Whenever the City intends to include a “system charge” as a part of the assessable cost for an improvement, the notices of public hearing sent to the property owners prior to the making of the improvement shall specify the total amount of such “system charge” to be made against the proposed improvement.

4. Where an improvement is designed for service of an area beyond that of direct benefit, increased project costs due to such provisions for future service extensions shall be a “system cost”. This “system cost” may be funded by the City, to be assessed as a “system charge” together with direct benefits for lateral utility lines as stated in paragraph 2, above, or may be assessed to the area of future benefit immediately.

5. 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 costs” which, in the opinion of the City Council,

represents the excess cost not directly attributable to the area served. Because frontage roads along highways or other arterial streets are deemed to be of benefit to commercial or industrial properties, the entire costs of any improvement on such frontage roads shall be assessable to the benefitted properties, even if only those properties on one side of such frontage roads are benefitted.

6. If financial assistance is received from the federal government, from the State of Minnesota, or from any other source to defray a portion of the costs of a given improvement, such aid shall be used to reduce the "City cost" of the improvement.

7. The "assessable cost" of an improvement shall be defined as being those costs which, in the opinion of the City Council, are attributable to the need for service in the area served by the improvement. Said "assessable cost" shall be equal to the "project cost" of the current project as defined above, plus the "system charge" as defined above, minus the "City cost" as defined above.

8. 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.

9. Any property which includes an unusable portion due to the presence of a public waterway, judicial ditch or other public serving facility shall have an assessment levied by a reduced amount based on the width of the unusable property frontage as determined by the City Engineer.

10. The term "lot" as used in this policy statement shall be defined as follows:

    a. A single platted lot, or a fraction of a single platted lot, individually owned and used.

    b. A combination or more than one platted lot which can be shown to provided only one buildable site in an accordance with the provisions of the City's Zoning Ordinance.

    c. Any un-platted parcel of property. (1 buildable site).

11. In no event shall an assessment on any property exceed the benefit accruing to that property.

SECTION II: SURFACE IMPROVEMENTS – Surface improvements shall include grading and aggregate base construction, sidewalks, curb and gutter, surfacing and resurfacing.

A. STANDARDS FOR SURFACE IMPROVEMENTS
In all streets or alleys prior to street construction and surfacing, or prior to resurfacing, all utilities and utility service lines (including sanitary sewer, water, gas and electric services) shall be installed to serve each known or assumed building location. No surface improvements to less than both sides of a full block of street shall be approved except as necessary to complete the improvements of a block which has previously been partially completed. Concrete curbing or curb and gutter 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 will not be required.

1. Arterial streets – shall be minimum 9-ton design, of adequate width to accommodate projected traffic volumes (Industrial Park R/W should be 80' minimum width). Sidewalks shall be provided on both sides of all arterial streets unless specifically omitted by the City Council, and shall be of the width approved by the City Council. Arterial streets shall be resurfaced at or near their expected service age, dependent upon existing conditions.

2. Collector streets (including commercial and industrial access streets) – shall be 7-ton design or 9-ton design, based on anticipated usage, and shall normally be 44 feet in width, measured between faces of curbs. Collector streets shall be resurfaced at or near their expected service age or at such time as the Council determines it is necessary to raise the structural value of the streets.

3. Residential streets –shall be minimum 5-ton design, 36 feet or 40 feet in width, measured between faces of curb. Unless specifically omitted by the Council, the Council may order the construction of sidewalks when such construction is warranted. Residential streets shall be resurfaced at or near their expected service age, depending upon existing conditions.

4. Alleys, in residential areas, shall be minimum 5-ton design. In commercial or industrial service areas, alleys shall be constructed to a 7-ton or 9-ton design, based on the anticipated usage of the alley in question. Alleys shall be resurfaced at or near their expected service age, dependent upon existing conditions.

B. ASSESSMENT FORMULA FOR SURFACE IMPROVEMENTS
The assessments to be levied against properties with the benefitted areas shall be distributed to those properties on the basis of the following provisions:

1. The "assessment rate" to be applied against each individual property shall be equal to the "assessable cost" of the project divided by the total number of "assessable units" benefitted by the improvement.

2. The “assessable unit” to be used for all surface improvements, unless otherwise specified by the City Council, shall be the “frontage” of the property. For surface improvements, such “frontage” shall be determined as follows:

   a. For rectangular interior lots, the “frontage” shall be equal to the dimensions of the side of the lot abutting the improvement.

   b. For rectangular corner lots, the “frontage” shall be equal to the the short side frontage on the shorter side. The long side shall be assessd at 10 feet plus the entire frontange over 150 feet. ,Provided, further, that for ornamental street lighting in a residential area, and for all street resurfacing improvements, the “frontage” of a rectangular corner lot shall be equal to only the dimension of the smaller of the two sides of the lot.

   c. For irregular shaped interior lots, the “frontage” shall be the width measured across the 30’ setback line. (See diagram)

   d. For irregular shaped corner lots, the “frontage” the “frontage” shall be equal to the the short side frontage on the shorter side as measured in (c) above. The long side shall be assessd at 10 feet plus the entire frontange over 150 feet calculated at the 30’ setback line for irregular lots. Provided further, that for ornamental street lighting in residential areas and for all street resurfacing improvements the “frontage” of an irregularly shaped corner lot shall be equal only to the average width of the lot.

   e. For interior lots less than 150 feet in depth which abut two parallel streets, the “frontage” for a given type of surface improvement shall be calculated on only one side of the lot. The frontage shall be based on the side used for primary access.

   f. For end lots less than 150 feet in depth which abut three streets, the “frontage” for a given type of surface improvement shall be calculated on the same basis as if such lot was a corner lot abutting the improvement on two sides only.

   g. For lots greater than 150 feet in depth which abut two parallel streets, the “frontage” for a surface improvement shall be calculated independently for each frontage unless other City regulations prohibit the use of the lot for anything but a single family residence in which case the average width is the total “frontage”.

   h. Alleys – For all lots on alleys, the “frontage” shall be equal to the dimensions of the side of the lot abutting the improvement. No corner lot adjustments shall apply, except no assessment shall be levied against the long side of lots which have two sides abutting a T-alley.

In cases where the City Council determines that the assessable costs would be more equitably distributed (including those instances where agreement can be reached between the City and the developer of a subdivision), the assessable unit may be the “lot” (i.e. – a uniform “per lot” assessment).

3. The following general provisions shall be used in the allocation costs of a surface improvement:

    a. If the improvement is accomplished as required by the subdivision regulations of the City, the entire cost of the improvement shall be assessable against properties within the subdivision served with the exception that in a residential area, the “City cost” shall be equal to the increased cost for constructing a street to arterial or collector design standards in lieu of construction to residential design standards. Provided, also, that in commercial or industrial subdivisions, the increased cost of constructing a street to arterial standards on lieu of construction to the collector design standard required to serve such subdivision shall be assumed as “City cost”.

    b. If the improvement is accomplished in a previously platted or previously developed area with multiple ownerships, the following provisions shall apply.

        1.) The increased cost of constructing a street or alley to a design standard higher than that required to serve the area shall be charged as “City cost”.

        2.) On street and alley reconstruction projects, one half of the cost of constructing a standard residential street or alley, including curb and gutter (if applicable) and upgrading the subgrade and aggregate base shall be assessed to the abutting properties. Each benefitted property owner shall be assessed one-fourth of the project cost, plus 15 percent of the project cost for engineering, legal, administration, and bonding contingencies. On reconstruction projects, the City shall pay the construction cost for intersections and for extra width or strength, if and when it is deemed that it is the best interest of the City to provide these additional features. If the property owner(s) requests or requires additional width or strength, or different type of surfacing, the cost of such construction shall be borne by the property owner(s).

3.) On aggregate surface (gravel) streets, where a hard surface (ex. Bituminous or concrete) did not previously exist, the adjoining lot owners shall pay the entire cost of the improvements.

4.) On municipal state aid street improvement projects or other street improvement projects, assessments shall be levied against those properties where improvements of the type constructed have not previously existed. The assessment rates for such improvements shall be equal to those levied to similar properties on projects which are constructed under the regular improvement program.

c. On all sidewalk replacement projects the City will pay one-half (1/2) of the total costs of the project. The remaining one-half (1/2) will be levied as special assessments to the benefitting properties in accordance with established policies and procedures.

SECTION III: SUBSURFACE IMPROVEMENTS - Subsurface improvements shall include water distribution lines, sanitary sewer lines and storm sewer lines. Water main improvements will be made and specially assessed by the City Council, in accordance with the requests of the Owatonna Public Utilities Commission, and “City costs” therefore shall be the responsibility of the Commission.

A. STANDARDS

Subsurface improvements shall be made to serve current and projected land use. All installations shall conform to the minimum standards therefore as established by those City, State and/or Federal agencies having jurisdiction over the proposed installations. All installments shall also comply, to the maximum extent feasible to such quasi-official, nationally recognized, standards as those of the American Insurance Association (formally National Board of Fire Underwriters).

Service lines to each known or assumed building location shall be installed in conjunction with the construction of the mains.

B. ASSESSMENT FORMULA FOR SUBSURFACE IMPROVEMENTS

The assessments to be levied against properties within an area benefitted by subsurface improvements shall be distributed to those properties on the basis of the following provisions:

1. The “assessment rate” to be applied against all properties and against each individual property shall be equal to the “assessable cost” of the project divided by the total number of assessable units benefitted by the improvement.

2. The “assessable unit” to be used for all subsurface improvements, unless otherwise specified by the City Council, shall be the “frontage” of the property. For subsurface improvements, such “frontage” shall be determined as follows:

a. For rectangular interior lots, the “frontage” shall be equal to the dimension of the side of the lot abutting the improvement.

b. For rectangular corner lots, the “frontage” shall be equal to the dimension of the smaller of the two sides of the lot abutting the streets, whether the improvement is made on the street abutting the short side of the lot, on the street abutting the long side of the lot, or on both streets.

c. For irregularly shaped interior or corner lots, the “frontage” shall be the width of the 30’ setback line. (See diagram)

d. For interior lots less than 150 feet in depth which abut two parallel streets, and for end lots less than 150 feet in depth which abut three streets, the “frontage” for a given type of subsurface improvement shall be calculated on the same basis as if such lot abutted only one street. For interior lots greater than 150 feet in depth which abut two parallel streets and for end lots greater than 150 feet in depth which abut three streets, the frontage shall be equal to the total frontage on both of the two parallel streets plus the entire depth in excess of 300 feet; provided, however, that where the application of the City’s Zoning Ordinance or the application of the restrictive covenants filed with the plat for a subdivision limit the use of such lot to only one residence, the frontage shall be calculated on the same basis as if such lot abutted only one street.

e. For large platted or un-platted, lots, only the abutting 150 feet of property shall be assessable for direct benefits from the installation of water mains and/or sanitary sewers. Storm sewer and subsurface drainage may be assessed on a front footage or square foot basis. If the storm sewer serves a newly developed area, it shall be assessed on the square foot basis. The property being benefited as determined by a contour drainage map shall be assessed. The City may share in the total cost as determined by the City Council. Subsurface drainage in newly developed areas constructed for the purpose of street drainage and sump pump discharge line shall be assessed by the front foot.

In cases where the City Council determines that the assessable costs would be more equitably distributed (including those instances where agreement can be reached between the City and the developer of a subdivision), the assessable unit may be the “lot” (i.e. – a uniform “per lot” assessment).

3. 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

assessable against properties with the subdivision served with the following exceptions.

1. On sanitary sewer construction within a subdivision, if the size of mains installed is larger than the size of mains required to provide complete sewer service to the subdivision, the costs for oversizing such mains shall be regarded as “City cost”.

2. On sanitary sewer construction where no point of connection to existing mains is available within, or at the outside boundary of the subdivision, the City will levy normal assessments to all intervening properties benefitted by the required extensions and deduct the total of such assessments collected from the total project costs.

   Where such extension beyond the subdivision boundary is installed and oversized to provide future service to the areas other than the subdivision, the costs for such extension shall be equitability distributed between the areas to be served.

3. On storm sewer construction, if the storm sewer system installed is designed so as to provide service only to properties within the subdivision and discharge into an adequate natural waterway, the “assessable cost” shall be equal to the total project costs.

   Where the storm sewer system installed within a subdivision is a part of a large storm sewer system, the “assessable cost” shall be the subdivision’s pro-rata share of the current cost of replacement of the in place portion of the storm sewer system plus current project costs plus the estimated costs for completion of the storm sewer system based on current construction costs.

b. If the improvement is accomplished in a previously platted or developed area of multiple ownership, the following provisions shall apply:

   1. The costs for oversizing sanitary sewer main beyond that required to provide complete service to the directly benefitted area shall be regarded as “system cost”.

   2. Where extension of a sanitary sewer main from a point of connection beyond the area served is required, the cost for such extension shall be equitably distributed between the areas directly benefitted by the current project and those which will derive future benefit therefrom.

Further, it is the intention of the City Council, that in the event the literal application of the provisions outlined herein would result in an inequitable distribution of special

assessments, the City Council reserves the right to adjust the policy so as to achieve a more equitable distribution, without formal amendment to this resolution.

SECTION IV: NOTICE OF ASSESSMENT AND PAYMENT OPTIONS – Notice of the City Council hearing on the proposed assessments shall be published and mailed to each affected property owner according to the procedures set out in Minnesota Statutes, Chapter 429. The following is intended to provide a summary of the payment options available and the owner's right to object and appeal..

A. PAYMENT OF ASSESSMENTS AND INTEREST
Once the clerk has prepared the special assessment roll and the council has approved it, property owners initially have two options:

- either pay the total amount of their assessment immediately,

or

- pay the assessments in annual installments (with interest) under the terms set by the council.

Alternatively, the property owner can:

- Pay the entire amount of the assessment within 30 days after the council adopts the assessment rolls. In this situation, the City cannot charge any interest.

- Pay the entire amount at any time after 30 days, but before any certification to the county auditor. The property owner pays only the amount of interest accrued as of the date of payment.

- At any time after the certification, the property owner may still pay the entire remaining unpaid amount to the county treasurer. However, the property owner must pay the entire remaining unpaid amount of the assessment before Nov. 15 of any year, and must also pay all interest accrued until the end of that calendar year.

The council may authorize, by ordinance, partial prepayment of assessments prior to certification to the county auditor.

If the property owner elects not to pay the entire amount of the assessment at once, he or she may pay it in annual installments spread over the number of years the council has allowed.

B. DEFERRED ASSESSMENTS
Deferred assessments are certified to the county auditor but collection is deferred. All deferred assessments constitute liens on the property and must be paid within 30 years of the assessment levy. Interest on the assessments discussed subsequently, may be paid or deferred. The City is authorized to allow a property owner to defer paying a certified assessment until a later date, provided the

property owner or the property meets certain criteria. There are three types of authorized deferrals:

- undeveloped property
- senior citizen and disability deferrals
- Green Acres

The Council may defer the payment of any assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability when the following conditions are met:

1. The applicant must apply for deferment no later than thirty (30) days after the adoption of the assessment roll by the Council.
2. The applicant must be the owner of the property.
3. The applicant must occupy the property as his principle place of residence.
4. The applicant's income limit from all sources shall not exceed the current "Very Low (50%) Income Limits" as provided in the area median income limits published annually by the United States Department of Housing and Urban Development.

If the Council grants the application, the City Clerk will cause to have filed a lien against the property with the County Recorder. The lien plus interest, in an amount to be set by the City Council, will 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 all or any part of the property.
3. Loss of homestead status on the property.
4. Determination by the Council that requiring immediate or partial payment would impose no hardship.

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

The Council may defer the payment of any assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability when the following conditions are met:

1. The applicant must apply for deferment no later than thirty (30) days after the adoption of the assessment roll by the Council.
2. The applicant must be the owner of the property.
3. The applicant must occupy the property as his principle place of residence.
4. The applicant's income limit from all sources shall not exceed the current "Very Low (50%) Income Limits" as provided in the area median income limits published annually by the United States Department of Housing and Urban Development.

If the Council grants the application, the City Clerk will cause to have filed a lien against the property with the County Recorder. The lien plus interest, in an amount to be set by the City Council, will 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 all or any part of the property.
3. Loss of homestead status on the property.
4. Determination by the Council that requiring immediate or partial payment would impose no hardship.

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

C. CHALLENGES BY PROPERTY OWNERS

Minnesota law requires that an owner of property who objects to the assessment must file a written objection with the city clerk before the assessment hearing or present the same to the presiding officer at the hearing. Any objection not received in the manner prescribed is waived unless the failure to object at the hearing are due to reasonable cause. Minnesota law further provides that if the property owner wishes to appeal the adoption of the assessment the owner may do so provided the owner filed a written objection before or at the assessment hearing unless the owner's failure to do so was due to reasonable cause. The appeal is made to the District Court by serving a notice on the mayor or the city clerk within thirty (30) days after the adoption of the assessment. The notice must be filed with the Court Administrator of the District Court within 10 days after it is served on the mayor or city clerk. All objections to the assessment are deemed waived unless presented on such appeal.