

# **STREET ASSESSMENT POLICY**

Approved by the Common Council on \_\_\_\_\_, 2023, RES-23-\_\_\_\_\_, File No. \_\_\_\_\_

## **1.0 City of Madison Policy for the Assessment of Street Improvements**

This policy has been developed to guide the preparation of special assessments for street improvements undertaken by the City of Madison. The City specially assesses properties under its police powers pursuant to Wis. Stat. § 66.0701 and Madison General Ordinances Sec. 4.09. In order for a special assessment to be lawful, the property must be benefited and the assessment must be made on a reasonable basis. In determining the reasonableness of the City's assessment, the City's exercise of its police powers must be uniform, and the assessment must be fairly and equitably apportioned among property owners in comparable positions. However, the assessment must also consider any unique facts and circumstances that may lead to disproportionate results between property owners. Recognizing that there is no assessment policy that would lead to uniformly reasonable results on all projects, it is understood that, where necessary, the apportionment method used on a project may deviate from this policy.

The City has long levied special assessments on street improvement projects against property. The City has used a uniform assessment policy that imposed special assessments on properties that are benefited by the improvement, with the assessments being based upon a defined percentage of the actual construction costs of a project. However, costs imposed against property owners have varied significantly based upon numerous factors outside of the control of individual property owners (such as topography, roadway type, transportation mode usage and volumes, bid prices, condition of features, existence of sidewalk, etc.). Property owners on the same project and property owners on similar types of projects could have vastly different assessments from each other, leading to assessments that, while lawful, were not always perceived as equitable. As street improvements provide benefits to all parcels in an assessment district, and to the City at large, it is appropriate and reasonable to impose a uniform assessment rate while having the City itself absorb cost fluctuations.

This updated policy modifies the City's approach by creating one street improvement assessment rate that will be imposed against all benefited parcels uniformly based upon frontage, with the remainder of the individual project costs to be the City's share of the project. This approach will impose the same rate, regardless of the individual project components or unique circumstances, based upon a percentage of the City's actual costs to construct street improvements. The Common Council finds that this updated policy is reasonable, and leads to a fair and equitable apportionment of assessments among property owners in comparable positions.

Special assessments under this updated policy shall be determined as follows:

### **1.1 Street Improvement Assessment Rates**

The City Engineer shall determine the weighted unit costs of street improvements (curb & gutter, pavement & base, terrace, sidewalk, driveway aprons). The weighted unit costs will be determined annually by calculating the actual unit costs

(on a per foot basis) incurred by the City on public improvement projects over the last three years, giving weight to the more recent years. The weighted unit cost, as determined under this Section, will be the Street Improvement Assessment Rates that will apply to all projects anticipated to be built the following year.

The weighted unit costs will be the sum of

- i. 50% of the unit costs for a category for the current year
- ii. 33.3% of the unit costs for one year prior
- iii. 16.7% of the unit costs for two years prior

## **1.2 Curb & Gutter, Pavement, Terrace & Sidewalk**

- (1) Street Reconstruction Projects. The cost of street improvements associated with a street reconstruction project (curb & gutter, 10' x 1' of pavement, terrace & sidewalk) shall be assessed at the Street Improvement Assessment Rate on a per foot basis based upon frontage. New curb & gutter and sidewalk shall be assessed 100%, but will be eligible for up to 100% grant reimbursement of these costs (which grants will reduce the assessments for these items); repairs or replacement of curb & gutter and sidewalk will not be assessed. The curb will not be assessed where the only reason for the curb to be replaced is because the location of the curb is changing.
- (2) Resurfacing Projects. The cost of street improvements (10' x 1' of pavement) associated with a resurfacing project shall be assessed at the Street Improvement Assessment Rate on a per foot basis based upon the amount of frontage; repairs or replacement of curb & gutter and sidewalk will not be assessed. A resurfacing project shall be assessed if the improvement is both the full width of the street and greater than a full block length or greater than 500'. If the improvement is less than full width or if it is less than a full block in length or less than 500' in length, then it will be considered a patch and not assessed.
- (3) New Street Construction. The cost of street improvements associated with a new street shall be assessed 100% to adjacent owners.
- (4) Subdivision Improvements. Streets and sidewalks/paths which have been laid out in a subdivision in accordance with Section 16.23 of the Madison General Ordinances or that are required to be constructed or reconstructed to serve new subdivision improvements shall be installed at the expense of the Developer and are not covered by this policy.
- (5) Infill Sidewalk Projects. New sidewalks installed separate from a street reconstruction project shall be assessed 100%, but will be eligible for up to 100% grant reimbursement of these costs (which grants will reduce the assessments for these items).

- (6) Sidewalk Replacement Program. Sidewalk removed and replaced as part of the Sidewalk Replacement Program shall not be assessed. Additional sidewalk requested for replacement by property owner shall be paid 100% by property owner.
- (7) Limitation. When determining project assessments under this Section, assessments levied shall not exceed the actual project costs incurred by the City to make the street improvements. Should this occur, the assessments will be reduced proportionally against all properties in the project to ensure that only the actual costs of the street improvements are assessed.
- (8) Grant Funding. Availability of grant funding for assessable sidewalk and curb costs is subject to criteria outside of this special assessment policy. As of the approval of this policy, grant eligible projects include those that install new sidewalk adjacent to an existing street and/or reconstruct a street without curb and gutter where the right of way was annexed prior to 1981, or where the properties were developed prior to being annexed to the City. Projects must also be located in areas where the frontage is at least 70% single family or two family dwelling units.

### **1.3 Drive Aprons**

The cost of removing and replacing existing drive aprons associated with a City of Madison initiated project (other than the Sidewalk Replacement Program) shall be shared 50% by the City and 50% by the adjacent property owners. This applies to all existing drive aprons constructed with gravel, asphalt or concrete. The cost shall be based upon the current Street Improvement Assessment Rates. The drive apron will not be assessed where the only reason for the drive apron to be replaced is because the location of the curb is changing.

Drive aprons removed and replaced as part of the Sidewalk Replacement Program shall be at the request of the property owner and shall be assessed 100% to the property owner.

The cost of installing a new drive apron where none previously existed shall be assessed 100% to the adjacent property owner.

### **1.4 Terrace Walks**

The cost of removing and replacing existing terrace walks associated with a City of Madison initiated project shall be shared 50% by the City and 50% by the adjacent property owners. The cost shall be based upon the current Street Improvement Assessment Rates.

The cost of installing a new terrace walk where none previously existed shall be assessed 100% to the adjacent property owners. The cost shall be based upon the current Street Improvement Assessment Rates.

### **1.5 Alley Reconstruction**

Alley reconstruction associated with a City of Madison initiated project, regardless of existing surface material, shall be shared 50% by the City and 50% by the adjacent property owners. The cost shall be based upon the current Street Improvement Assessment Rates. If no weighted costs of alley improvements can be determined, comparable types of improvements shall be used to determine the applicable rate.

### **1.6 Retaining Walls**

The initial cost of installing retaining walls (where no wall currently exists) associated with a City of Madison initiated project shall be paid for 100% by the City.

The cost of removing and replacing existing retaining walls which were initially constructed by the City and are located on the property side of the public sidewalk and associated with a City of Madison initiated project shall be shared 50% by the City and 50% by the adjacent property owners, and be based upon the actual construction costs incurred by the City.

### **1.7 Terrace Stairs (not at roadway intersections)**

The cost of removing and replacing terrace stairs shall be assessed 100% to the adjacent property owner. If the property owner is agreeable to permanently removing the stairs, the City will share that cost 50/50. The cost shall be actual construction cost.

### **1.8 Special Paving Materials**

Existing terrace walks and drive aprons installed by the property owner that are constructed with pavers, stamped and/or colored concrete, or other special paving materials, will not be replaced by the City. All such specialty work shall be the responsibility of the property owner.

### **1.9 Determination of Assessable Frontage**

The assessable frontage of a parcel is equal to the actual frontage of the parcel abutting the right-of-way.

Lots that abut more than one street and are single-family or two-family residential dwellings shall be assessed at a discounted rate for street improvement work. The rate shall be  $\frac{1}{2}$  (one-half) of the rate of a mid-block parcel.

Parcels that have “No Access” by deed restriction shall be evaluated to determine if a benefit is conferred by the improvement. Deed restrictions shall not be employed for the purpose of avoiding special assessments.

Parcels may effectively be denied access to a street because of topography. Such parcels shall be evaluated to determine if a benefit is conferred by the improvement.

Parcels that have double frontage (front and back of lot both abut streets) shall be evaluated to determine if a benefit is conferred by the improvement. In most cases the parcel will be assessed on one frontage only.

Where irregular shaped lots result in excessive frontage as compared to similarly configured mid block lots or mid block lots of a similar area, the maximum assessable frontage shall be 1.5 times the assessable frontage of a similar mid block lot.

### **1.10 Exemption of Minimal Special Assessments**

In certain cases the estimated assessment for a property may be very small. Common examples of this include costs being paid for by several owners (condos) or assessment districts that encompass large areas and are related to trip generation (Intersection Assessments). In these cases, it is possible that the City's costs to impose and collect the assessment, in particular the necessary staff time and mailing expenses, will exceed the amount of the assessment itself.

To protect against special assessments that are less than the City's costs to impose and collect the assessment, the minimum assessment amount shall be \$5.00, or such other minimal amount as periodically determined by the Board of Public Works.

The City will not levy any assessments against a property where the total assessment of all items the City assesses is under \$5 to the property. The City shall pay this share as a part of the City's project costs.

## **2.0 City of Madison Policy for the Assessment of Redevelopment and Infill Improvements**

This policy has been developed to guide the preparation of special assessments for Redevelopment and Infill Improvements within the City of Madison. This policy is an exception to the Street Assessment Policy set forth in Section 1.0.

The City specially assesses properties for certain public works or improvements under its police powers pursuant to Wis. Stat. § 66.0701 and Madison General Ordinances Sec. 4.09. In order for a special assessment to be lawful, the property assessed must be benefited and the assessment must be made on a reasonable basis. In determining the reasonableness of the City's assessment, the City's exercise of its police powers must be uniform, and the assessment must be fairly and equitably apportioned among property owners in comparable positions.

The City's Special Assessment Policies address the assessment of public improvements undertaken by the City. Under Section 1.0, the City's Street Assessment Policy, all or a portion of the curb & gutter, pavement & base, terrace, sidewalk, and driveway apron costs are normally assessable public improvements. In addition, under City ordinance and policy, streets and sidewalks required to be constructed or reconstructed to serve new subdivisions, redevelopment or infill development ("development"), are usually installed at the expense of the developer, or are 100% assessable City projects.

Under State tax increment law, Wis. Stat. § 66.1105, certain "project costs" may be funded by tax incremental financing (TIF). However, the costs of a public improvement that are otherwise specially assessed, such as street improvements, are not eligible project costs and cannot be funded by TIF.

This policy will allow for all or a portion of the costs of certain public improvements associated with a narrow set of redevelopment and infill projects to be considered non-assessable public improvements while also compliant with the reasonableness requirements otherwise applicable to specially assessed improvements. Application of this Policy will allow for the use of TIF funding on Redevelopment and Infill Projects.

The City, in its sole discretion, may elect to follow its Redevelopment and Infill Assessment Policy for new streets constructed as part of a Redevelopment and Infill Project. No person or entity is entitled to otherwise specially assessable costs being subject to this policy.

## **2.1 Definitions**

A Redevelopment and Infill Project, or Project, is a public improvement project, including privately constructed public improvements, subject to this Policy. It includes the following types of projects:

- (1) A Connectivity Project, which is defined as a public street improvement necessary for connectivity to high-frequency transit or with one or more surrounding neighborhoods that have existed for at least thirty (30) years, and which street improvement is associated with a development.

## **2.2 Alternative Funding Availability**

The City will only consider utilizing this Redevelopment and Infill Assessment Policy if the City has an alternative source of funding available to cover the cost of the Project, such as Federal funding, State funding or Tax Increment Finance (TIF).

If TIF is to be used as a source of alternate funding for the Project, then the City's TIF Policy must be followed and the City may only use TIF funds to pay Project costs to the extent that such a need is demonstrated through a financial gap analysis.

## **2.3 Project Eligibility**

In order to be eligible under this Policy, the Project must meet the following project eligibility requirements:

- (1) Both the development and the associated Project are consistent with recommendations in the City's adopted plans.
- (2) In addition to benefitting concurrent development of the adjacent site, the Project will also have a significant positive impact on other properties in the surrounding area by increasing connectivity, access, and/or providing improved public infrastructure.
- (3) The project is located within eligible areas as shown in Figure 1.

## **2.4 Determination**

Upon a determination that a Project is eligible and that alternative funding is available, and subject to any limitations or requirements applicable under the TIF Policy, the City Engineer shall make a report to the Board of Public Works detailing the non-assessable Project costs under this Policy.

## **2.5 Example**

A connectivity project is proposed and found eligible under the Policy. Following a TIF analysis, tax increment is determined available for the Project. The City Engineer makes a determination of the non-assessable Project costs. Either the developer builds the Project and TIF funding is provided to pay for the non-assessable Project costs, or the City builds the Project, applies the TIF funding to the non-assessable Project costs, and specially assesses the rest of the Project under Section 1.0.

## TIF Utilization for Assessable Infrastructure

### Comprehensive Plan Infill Areas

**Eligible Area**      **Planned Street Network**

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Source: City of Madison Planning, Dane County LIO

# Figure 1

