

Special Assessment Policy

City of Birchwood Village



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1.0 POLICY GOALS

Birchwood Village's special assessment policies are written to:

- 1) Provide a comprehensive, well-constructed and well maintained infrastructure system for current and future users.
- 2) Provide a stable source of funding for infrastructure needs that is cost-effective for the City, and fair and consistent for all property owners.
- 3) Follow MN Statutes, Chapter 429 Local Improvements, Special Assessments.

2.0 INTRODUCTION

A special assessment is a levy on a property for a particular improvement that benefits the property. The authority is provided to cities through MN Statutes, Chapter 429. Special assessments assign a portion of the cost of the improvement to those receiving a direct benefit from the public improvement, thereby reducing the reliance on the general tax levy.

Assessment amounts are based upon the value(s) of the benefits conferred to an individual parcel or parcels as a result of the particular improvement and are allocated by the Council as guided by this policy. The amount assessed against any particular parcel is required to be not greater than the increase in the market value of the property attributable to the improvement. This can be determined by benefit appraisals completed prior to the public improvement. Even though the special assessment goals, policies, and procedures are identified in this document, the City Council has the authority to deviate from this policy as deemed appropriate by the Council or when the law requires such a deviation. When the City deviates from the policies identified in this document, it will attempt to identify the reasons for the deviation in the feasibility report or at the public hearings associated with the public improvement.

Some examples for deviation from this policy would be assessment differences due to varying lot sizes, dimensions, multiple frontages and odd shaped lots.

The type of improvement, such as a road, could be dependent on the type of road and its use or the type of project and the number of residences that would benefit from it.

3.0 POLICY DEFINITIONS

Adjacent/Abutting Property: Property directly adjacent to, provided access to or served by public improvements.

Access: Properties shall be considered to have access to public street improvements when they may enter onto the improvement from their own private driveway, private road, common driveway, shared easement, alley (improved or unimproved), or public street. Properties shall be considered to have access to underground or above ground utility improvements when they are within 150 feet of the utility. When distance is greater than

150 feet an administrative review will determine feasibility of access.

Adjusted Frontage: The assessable front footage of a benefited property that has been modified by an adjustment factor to more accurately represent the true benefit that property receives from an improvement in comparison to other properties in the assessment area. The adjustment will be based on factors that are applicable to that parcel, as approved by the City Council. Parameters that may be used to determine the adjustment factor include, but are not limited to: lot area comparison to surrounding lots based on odd shape, lot size, corner lots or those with multiple frontages, cul-de-sac lots as well as those adjacent lots owned by the city. Adjustments may be made to more fairly reflect an assessment that would more fairly distribute the cost of a special assessment.

Assessed Cost: Those costs of public improvements that have been determined to benefit specific properties. The amounts included in these costs include, but are not limited to engineering, legal, finance charges, land acquisition, demolition, construction, and administration.

Assessable Area: The assessable area is the total area of all of the benefiting properties, when using an area based method.

Assessable footage: The assessable footage is the total area of all the benefiting properties, when using the front footage method of assessment.

Assessment Method: The way an improvement is paid for as determined by the City Council. The Council may adopt a front footage rate which is associated with the front lot length of a single building lot as defined by City Code, or it may use the 'Per Unit' rate which divides the cost of the project up among the total number of homes in that area which would benefit more or less equally from the improvement.

Assessment Rate: The amount assessed to each property by the city based on either per frontage foot or per unit.

Benefit: The increase in property value as a result of a public improvement such as, but not limited to, a street, sidewalk, trail, curb and gutter, water main, sanitary sewer, storm sewer, park, or street landscaping

Deferment: A process of postponing the collection of the cost of a public improvement with the intention of collecting at a later date.

Driveway Approach: That which lies between the pavement and the right-of-way line, curb cut to curb cut.

Front Footage: The distance measured along the right-of-way line that directly abuts an improvement. This measurement can be adjusted as described above to more fairly reflect an equitable distribution of costs for a particular project as pertaining to benefits realized per individual property values.

Improvement: The act of making a modification to the original design thereby changing

the dimensions, structure or makeup as well as the appearance or functionality of existing infrastructure. As examples, widening a street or adding curbs, gutters or sidewalks would be improvements. Seal-coating, crack-filling or other routine maintenance would generally not be considered assessable.

Lot Definitions:

- 1) **Corner Lot:** A lot located at a street intersection having both front and side-lot footage.
- 2) **Double Frontage Lot:** A lot with access to two separate non-intersecting or intersecting streets but not a corner lot.
- 3) **Irregularly Shaped Lot:** Those lots abutting curved streets, cul-de-sacs, or other lots where there is more than five feet of difference in length between the front and back lot lines.
- 4) **Rectangular Lot:** A lot with less than five feet of difference in length between the front and back lot lines.
- 5) **Special Case Lot:** A lot which may not directly abut the improvement shall be assessed on a per unit basis if the improvement can be accessed.

Maintenance: The repair and upkeep of infrastructure, including but not limited to streets, sewers, utilities, parks and other within the city that are used by all residents. Maintenance keeps things in the state that they were originally designed and built in, and as maintenance projects do not change appearance, dimensions, or function they are not considered improvements. Maintenance is budgeted for and funded through general tax revenue or other source(s) of funds.

Public Improvement: See “Improvement” definition above. Would include changes in or new infrastructure as defined above including but not limited to street, sidewalk, trail, curb and gutter, water main, sewers, park, or landscaping improvements.

Special Assessment: A legal process whereby the benefited property is charged for all or a portion of the cost of a public improvement which in turn increases the value of the assessed property.

Storm Water: Storm water runoff project funding will be considered in conjunction with street repairs.

Street: All public ways designed as a means of access to the adjoining properties.

Street Treatment Definitions:

- 1) **Seal Coat:** Involves filling cracks with bituminous patch, spraying the road surface with oil and covering it with a layer of small rock or crushed granite. Seal coating is considered maintenance and as such will not be assessed.
- 2) **Mill and Fill:** Involves milling out larger cracks and filling these as a more effective

and longer lasting method of repair.

Mill and Overlay: Consists of grinding off the upper layer of asphalt and replacing it with a new layer.

Both Mill and Fill and Mill and Overlay are considered maintenance and will not be assessed unless the physical characteristics of the street are changed, widened or otherwise altered. If changes are made, these could be eligible for funding by special assessment.

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- 3) **Roadway Reclamation:** Consists of grinding up the existing asphalt surface completely and mixing it with a portion of the gravel base. This combination is then used as the new upper road base.
- 4) **Reconstruction:** Includes complete pavement removal, subgrade correction as needed, as well as elevation and width corrections, surface material, and other changes to the original design. This is often considered and done in conjunction with utility repairs/replacement.

System Cost: That portion of the assessable cost that benefits properties whose assessments are deferred because they are located outside of the City limits, or are unable to make use of the improvements due to factors beyond their control. An example would be street assessments for those properties along County Line Road, although these residents could derive some use from use of these streets. The City Council would need to make a special determination during the assessment stage of planning to allow for funding of anomalies such as these.

Unit: A unit for definitions of assessment may include, but is not limited to: a household; a parcel/lot or a residence.

Unit Share: That portion (or share) of the cost of an improvement project that is or will be assessed to a particular residence is considered the unit share. One unit is assessed no more than one share. If on a corner or odd shaped lot the unit may be assessed less than one share based on the frontages as accounted for in '**Methods of Assessment.**'

Yard, Front: A yard extending across the front of the lot between the side yard lines and lying between the front street line of the lot and the nearest line of the building.

4.0 METHODS OF ASSESSMENT

All Residential properties within Birchwood Village will be assessed by the Unit method whenever a special assessment is needed unless not feasible due to special conditions.

Residential Unit Method: This method is used for single dwelling residential properties. A unit shall be defined as one buildable lot consistent with the City of Birchwood Village's building ordinances. The types of lots listed reflect variations of computing unit shares to

make the outcome fairer for differences in lot shape and frontage.

- 1) **Corner Lot:** A lot located at a street intersection having both front and side-lot footage shall be assessed per unit. If a driveway abuts both streets and only one street is being improved then the lot will be assessed 50% of the per unit basis.
- 2) **Multiple Frontage Lot:** A lot with access to two separate non-intersecting or intersecting streets but not a corner lot may be assessed 50% of the per-unit basis for any street improvement that it has direct access to. Three sides would be 33.33%. This way the property will never be assessed more than one complete unit for all improvements it contacts.
- 3) **Irregularly Shaped Lot:** Those lots abutting curved streets, cul-de-sacs, or other lots where there is more than five feet of difference in length between the front and back lot shall be assessed as one unit.
- 4) **Rectangular Lot:** A lot with less than five feet of difference in length between the front and back lot lines shall be assessed as one unit.
- 5) **Special Case Lot Residential:** A lot which may not directly abut the improvement shall be assessed on a per unit basis if the improvement can be accessed. If not, the city council may make a case-by-case assessment taking exception in whole or part depending on the portion of use that the petitioning unit receives from the improvement.

Lot Frontage Method: This method assesses residences based on the length in front footage of the lot abutting the proposed improvement. While used by other cities utilizing this method as calculations can be more difficult, it is less fair as it penalizes residents with longer lots, corner or odd shaped lots, lots with multiple access sides and other anomalies. As our city is made up of a wide diversity of old and new lots of many sizes and shapes, the best choice will be the unit method. If necessary, the City Council can override that and choose to use a frontage method, and if so it will be based on the total cost of the improvement considered divided by the total frontage of the units involved. Consideration should be made for corner or multiple lots as in points 1-5 in the unit method above whenever possible. Frontage measurement must take into account the easements (subtracting these from the frontage) as well as the type of street being improved (see special considerations).

Note: These assessment methods and notes are shown for guidance purposes only. Prior to a public improvement project, a “benefits appraisal” shall be conducted to determine the actual special assessment based on the benefit received by the subject property/properties.

5.0 ASSESSMENT CONSIDERATIONS:

All properties benefiting from improvements are subject to the special assessment.

The project types to be assessed are not limited to those explicitly described in this policy.

The City Council reserves the right to consider additional infrastructure improvements on a case by case basis for assessment, including but not limited to storm drainage improvements, street lights, walls, noise walls, boulevard trees, and sidewalks (both new and replaced).

Prior to assessment/adoption the special assessment levy, benefit shall be verified by an appraiser at the discretion of the City Council. The Council may consider assessing up to 100% of total project costs or proven benefit, whichever is less, when such cases are warranted. The council may consider any other calculation method for assessments based on lot size or linear footage of the property in a project area. The council shall articulate its methodology in its feasibility study.

6.0 POLICY REVIEW SCHEDULE

The City of Birchwood Village will review this special assessment policy annually and make adjustments to assessment methods and unit rates as deemed appropriate.

7.0 PAYMENT OF ASSESSMENTS

- 1) Assessments for single family residential and multi-family(four units and less) will be made payable on a 8 year repayment schedule or as determined by the City Council on a per project basis following public input at the improvement or assessment hearings. Interest rates vary based on project financing, but are set no more than 2% above the City's rate on the sale of bonds or prime if the project is financed with general fund dollars.
- 2) Assessments for commercial, institutional and multi-family(five-units or greater) property can be paid for up to 8 years as determined by the City Council on a per project basis through certification to property taxes as a special assessment. Interest rates vary, but are set no more than 2% above the City's rate on the sale of bonds or prime if the project is financed with general fund dollars.
- 3) Property owners can pay the entire assessment within 30 days following the adoption of the assessment roll with no interest charged. Property owners may also make an interest free partial payment within 30 days, but the minimum partial payment is 25%. All unpaid balances will be certified to Washington County for payment with property taxes after October 1 of the year in which the assessment hearing was conducted. Interest will start accruing on all unpaid amounts 30 days after the assessment hearing.

8.0 DEFERRED ASSESSMENTS

MN Statutes § 435.193 to 435.195 authorize City Councils to allow certain deferrals. All deferments are subject to the interest as stated in this policy and become due upon the death of the owner (if the spouse is not otherwise eligible for the deferment); the sale, transfer or

subdivision of any part of the property; loss of homestead status on the property; or the council's determination that immediate or partial payment would impose no hardship.

The City Council may, at its discretion, defer the payment of an assessment of any homestead property owned by a person for who it would be a hardship to make the payment if the owner is one of the following:

- 1) A person who is 65 or older.
- 2) A person who is retired by virtue of a permanent and total disability.
- 3) A member of the Minnesota National Guard (or other military reserves) ordered into active military service.
- 4) A person unable to meet the payment obligations due to proven financial hardship.

Determining a financial hardship shall be completed by the city council's review of the applicant's income statement. A financial hardship deferral is automatically met if the household adjusted gross income is at or below 125% of the most recent Federal Poverty Line.

This Policy was adopted by the City of Birchwood Village City Council on April 9, 2019.

Amended by Resolution 2020-13; April 14, 2020.