

Ordinance #84

Assessment For Public Improvements

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1.01 **GENERAL POLICY STATEMENT.** The purpose of this assessment policy is to establish a fair and equitable manner of recovery and distributing the cost of public improvements. The procedures used by the City of Lowry ("City") for levying special assessments are those specified by Minnesota Statutes Chapter 429 which provides that all or a part of the cost of improvement may be assessed against benefiting properties.

Three basic criteria must be satisfied before a particular parcel can be assessed. The criteria are as follows:

1. The land must have received special benefit from the improvement.
2. The amount of the assessment must not exceed the special benefit.
3. The assessment must be uniform in relation to the same class of property within the assessment area.

It is important to recognize that the actual cost of extending an improvement past a particular parcel is not the controlling factor in determining the amount to be assessed. However, in most cases the method for determining the value of the benefit received by the improvement, and therefore the amount to be assessed, shall be the cost of providing the improvement. This shall be true provided the cost does not exceed the increase in the market value of the property being assessed. The entire project shall be considered as a whole for the purpose of calculating and computing an assessment rate. In the event City staff has doubt as to whether or not the costs of the project may exceed the special benefits to the property, the City Council may obtain such appraisals as may be necessary to support the proposed assessment.

The City must recover the expense of installing public improvements, while ensuring that each parcel pays its fair share of the project cost in accordance with these assessment guidelines. While there is no perfect assessment policy, it is important that assessments be implemented in a reasonable, consistent, and fair manner. There may be exceptions to the policy or unique circumstances or situations which may require special consideration and discretion by City staff and the City Council

The assessment policy is intended to serve as a guide for a systematic assessment process in the City of Lowry.

1.02 DEFINITION OF IMPROVEMENTS ELIGIBLE FOR SPECIAL ASSESSMENT.

Subd. 1. The following public improvements, authorized by Minnesota Statutes 429.021, are eligible for special assessment within the City of Lowry.

1. Streets, sidewalks, alleys, and curbs and gutters.
2. Watermain systems
3. Sanitary sewer and storm sewer systems.
4. Street boulevard trees.
5. Street lights.
6. Other improvements.

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- a. Acquisition and improvement of land and purchase of equipment for parks, open space areas, playgrounds, and recreational facilities.
- b. Acquisition and construction of parking lots.
- c. Construction, reconstruction, extension, and maintenance of dikes and other flood control works.
- d. Construction, reconstruction, extension, and maintenance of retaining walls and area walls.
- e. Abatement of nuisances; including, but not limited to, draining and filling swamps, marshes and ponds on public and private property.

Subd. 2. The City of Lowry also retains authority to recover, through special assessment, the following maintenance costs:

1. Snow and ice removal from sidewalks.
2. Rubbish removal and litter pick-up from streets and sidewalks.
3. Weed elimination from street and private property.
4. Street lighting, sprinkling, dust treatment, surfacing and patching.
5. Removal of obstructions, signs, or vegetation within the sight triangles of intersections.
6. Utility bills
7. General Clean up
8. Public Safety items
9. Parking Lots
10. Storm and Sanitary Sewer Systems
11. Waterworks systems

1.03 INITIATION OF PUBLIC IMPROVEMENT PROJECTS.

Subd. 1. Initiation of public improvement projects can be undertaken in any of the three following ways.

1. Public improvement projects may be initiated by petition of at least **35%** of the affected property owners. Alley improvements require 100% of the affected property owners signing the petition.
2. Public improvements also may be initiated by the City Council when, in its judgment, such action is required. A resolution ordering any Council initiated improvements requires an absolute majority (four affirmative votes) of the five members of the Council.
3. At the request of a Developer and as allowed by the City of Lowry Standard Developer's Agreement, a developer of the proposed subdivision may petition the City Council to construct the improvements and assess them.

1.04 PUBLIC IMPROVEMENT PROCEDURE. The following is the general procedure which will be followed by the City Council for all public improvement projects from initiation of such a project through certification of the assessment role to the County Auditor. Formats for the various reports and resolutions referenced in this section are made a part of the policies and procedures of the City of Lowry.

1. Staff reviews petition for submission to Council.
2. Council accepts or rejects petition. If accepted, Council orders preparation of feasibility report. Projects are initiated upon Council's desire, citizen requests, or other agency's request.

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3. Staff prepares feasibility report or reviews report submitted by other staff. Council could choose to send report to the Planning and Zoning Commission for comment.
4. Council accepts or rejects feasibility report. If accepted, Council orders public hearing on the improvements.
5. Staff posts and publishes hearing notice and mails notices to affected property owners.
6. Council conducts public hearing and adopts or rejects resolution ordering improvement to be constructed and advertisement of bids. Bonds to finance project costs may be issued at any time after the improvements are ordered.
7. Staff prepares final plans, advertises for and opens bids, prepares bid tabulation, makes recommendation to City Council for award, and prepares assessment roll.
8. Council reviews assessment schedule and orders assessment hearing. At the Council's discretion, the assessment schedule and assessment hearing may be delayed until the Project construction is complete.
9. Staff publishes hearing notice, mails notice of hearing date and proposed assessments to the affected property owners.
10. Council conducts assessment hearing adopts, revises, or rejects resolution adopting the assessment roll. If adopted, Council authorizes certification of the assessment to the County Auditor.
11. Council awards contract based on the bids received.
12. Staff supervises construction and prepares payments.
13. Staff certifies the assessment roll to the County Auditor.

1.05 FINANCING OF PUBLIC IMPROVEMENTS. The City of Lowry encourages public improvement projects as the area (s) benefiting and needing such improvements develop. Examples of this policy can be seen through the subdivision regulations, zoning ordinance, and building codes. New areas are required to provide the needed improvements and services before development occurs, thereby not creating unexpected hardships on the property owners purchasing such property nor on the general public. However, it is recognized that certain areas of the City have developed without all needed public improvements (e.g. parks, water, sewer, and street improvements) and that methods must be found to provide these improvements without causing undue hardships on the general public or the individual property owner.

Special assessments are generally accepted as a means by which areas can obtain improvements or services, however, the method of financing these is a critical factor to both the City and the property owner. Full project costs spread over a very short term can cause an undue hardship on the property owner and, likewise, City costs and systems costs spread over a long period of time can produce an undue hardship on the general public of the City.

It is the policy of the City to not defer assessments except in cases where hardship to senior citizens 65 years of age or older or persons retired by virtue of a permanent and total disability would result. Also, the City Council may elect to defer assessments on undeveloped land for a specified length of time or until the lands are developed. Terms and conditions of this deferral will be established in the resolution adopting the assessments.

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- 1.06 GENERAL ASSESSMENT POLICIES APPLICABLE TO ALL TYPES OF IMPROVEMENTS. The cost of any improvement shall be assessed upon property based upon benefits received. The following general principles shall be used as a basis of the City's assessment policy.
1. The "project cost" of an improvement includes the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing and other contingent costs, including acquisition of right-of-way and other property. The finance charges include all costs of financing the project. These costs include but are not limited to financial consultant's fees, bond rating agency fee, bond attorney's fees, and capitalized interest. When the project is started and funds are expended prior to receiving the proceeds from a bond sale, the project will be charged interest on the funds expended from the date of expenditure to the date the bond proceeds are received. The interest rate charged will be the average interest rate earned by the City's investments during the six months preceding the receipt of the bond proceeds. The interest charged to the project shall be included as financing charges.
 2. The "assessable cost" of an improvement is equal to the "project cost" minus the "City share."
 3. The City of Lowry will charge interest on special assessments at a rate specified in the resolution approving the assessment roll. If bonds were sold to finance the improvement project, the interest rate shall be two percent (2%) more than the average interest rate of the bonds, rounded to the nearest quarter of a percent. If no bonds were sold, the interest rate shall be set at 2% higher than the going Bond rate.
 4. Property owners may pay their assessments in full interest free for a period of 30 days after the assessment hearing. After such period interest shall be computed from the date specified in the assessment resolution. The City will certify each year's collection (principal and interest) to the County Auditor by November 30. Prior to the first certification of principal and interest to the County Auditor, a property owner may make a partial prepayment of the principal to the City of Lowry. Such partial prepayment must be at least \$100.00. If the partial prepayment is made after the 30 day "interest free" period allowed by state law, interest will be charged on the amount of the partial prepayment from the date specified in the resolution and paid along with the partial prepayment. After the City of Lowry has made the first certification of principal and interest to the County Auditor, prepayment will be accepted only for the total amount still owing, including interest. If a parcel has two or more separate special assessments, prepayment of the remaining principal balance may be made on one or more. Tax-exempt parcels such as churches and school properties may make only one partial prepayment to the first certification to the County Auditor. The remaining principal after the partial prepayment will be paid in equal installments over the remaining term of the special assessments.
 5. 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 may be paid for by the City. The City will levy assessments to cover this cost when a new improvement is installed as an extension of the existing improvement. As an alternative, the City may immediately assess these costs to the area of future benefit.
 6. Where the project cost of an improvement is not entirely attributed 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, may pay such "City cost" which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served.
 7. 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

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such frontage roads shall be assessable to the benefited properties, even if only those properties on one side of such frontage roads are benefited.

8. If financial assistance is received by the City from the Federal Government, the State of Minnesota, the County of Pope, or from any other source to defray a portion of the costs of a given improvement, such aid 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 placed in the Capital Improvement Fund to be applied towards reduction project cost.
9. 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.
10. Improvements specifically designed for or shown to be of direct benefit to one or more properties must be constructed by the City. The costs for these improvements will be assessed directly to such properties, and not included in the assessments for the remainder of the project. An example of this would be utility service lines running from the main lines to the property.
11. Benefit Appraisals. In the event that city staff has doubt as to whether or not the proposed assessments exceed the special benefits to the property in question (increased property value as defined by State Law), the City Council may order benefit appraisals as deemed necessary to support the proposed assessments.
12. A property owner may elect to offset special assessments against condemnation awards by executing a Net Assessment Agreement with the City Council.

1.07 METHODS OF ASSESSMENT.

Subd. 1. General Statement. There are different methods of assessment: per lot, adjust front foot, and area. For any particular project one of these methods will more adequately reflect the true benefits received in the assessment area than the other methods. The City Engineer, in his feasibility study to the Council, will recommend one or a combination of these methods for each project, based upon which method would best reflect the benefit received for the area to be assessed. The City Council will select the preferred method of calculating the assessments at the time the project is ordered.

Subd. 2. Policy Statement. The following methods of assessment, as described and defined below, are hereby established as the official methods of assessment in the City of Lowry.

A. "Adjusted Front Footage" Method of Assessment.

The "cost per adjusted front foot" shall be defined as the quotient of the "assessable cost" divided by the total assessable frontage benefiting from the improvement. For the purpose of determining the "assessable frontage," all properties, including governmental agencies, shall have their frontages included in such calculation.

The actual physical dimensions of a parcel abutting and improvement (i.e., street, sewer, water, etc.) shall NOT be construed as the frontage utilized to calculate the assessment for a particular parcel. Rather, an "adjusted front footage" will be determined. The purpose of this method is to equalize assessment calculations for lots of similar size. Individual parcels by their very nature differ considerably in shape and area. One of the following procedures will apply when calculating adjusted front footage. The selection of the appropriate procedure will be determined by the specified configuration of the parcel. All measurements will be scaled from available plat and section maps and will be rounded down to the nearest foot dimension with any excess fraction deleted.

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1. Rectangular Interior Lots. The rectangular lot is defined as having no more than 2.0 feet difference between the front and rear lot lines. The adjusted front footage is the actual front footage of the lot. For rectangular lots whose frontage is greater than its depth, the "odd shaped lot" method as explained next shall be used.
2. Odd Shaped Lots. For odd shaped lots such as exist on cul-de-sacs and curved streets where there is more than 2.0 feet of difference between the front and rear lot lines, and where the lot's frontage is greater than its depth, the "odd shaped lot" method of determining the adjusted front footage shall be used. The adjusted front footage shall be computed by dividing the area of the lot by 12,000 square feet to determined the equivalent number of front footage units in the parcel. The number of units multiplied by 65 feet will give the adjusted front footage.
3. Corner Lot Adjustment. For street and trail assessments, the frontage side will be assessed 100% and the side of the lot will be assessed 50% of the footage. Sanitary Sewer and Water Main will be assessed on the frontage side of a corner lot.
4. Zonal Assessment. When the street along the long side of a corner lot is improved, the cost shall be assessed equally to all lots within 1/2 block in each direction of the street improved. This method may be selected rather than the corner lot adjusted.

B. "Area" Method of Assessment.

When it has been determined to assess by the "area" method, the area shall be defined as the number of square feet or acres within the boundaries of the appropriate property lies of the areas benefiting from the project. The assessment rate (i.e., cost per square foot) shall be calculated by dividing the total assessable cost by the total assessable area. On large lots, the City Engineer may determine that only a portion of the lots receives the benefit and may select a lot depth for the calculations equal to the benefit received.

For the purposes of defining assessable areas, all properties included in the benefited area, including other governmental areas, churches, etc., shall be included in the assessable areas. The following items may not be included in area calculations: public right-of-ways, natural waterway, swamps and lakes and other wetlands designated by the MN/DNR or City. The City Engineer will make the recommendation on the benefited area in the feasibility report.

C. Per Lot Method.

When it has been determined to assess by the "per lot" method, all lots within the benefited area shall be assessed equally for the improvements. The "cost per lot" shall be defined as the quotient of the "assessable cost" divided by the total assessable lots or parcels benefiting from the improvement. For the purpose of determining the "lots" or "parcels" all parcels, including governmental agencies, shall be included in such calculations.

1.08 STANDARDS FOR PUBLIC IMPROVEMENT PROJECTS. The following standard are hereby established by the City of Lowry to provide a uniform guide for improvements within the City and also to be used by the City Engineer in establishing "system costs" as differentiated from "assessable costs" and "City costs."

- A. Surface Improvements: Surface improvements shall normally be interpreted to include all improvements visible on or above the ground within the right-of-way, and includes, but is not limited to trees, lighting, sidewalks, signing; street and accessory improvements such drainage ponds and facilities, parking lots, parks and playgrounds.

Policy Statement. In all streets, prior to street construction and surfacing, or prior to resurfacing, all utilities and utility service lines, (including but not limited to sanitary sewers, storm sewers, water lines, gas and electric service) shall be installed to serve each known or assumed building location when practicable.

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When practicable, 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 shall be installed at the same time as street surfacing.

B. Sub-Surface Improvements. Subsurface improvements shall normally include such items as water distribution, sanitary sewer and storm sewer lines and electric and gas utilities.

For purposes of definition, main lines are defined as the publicly owned and maintained lines such as trunk lines, interceptors, mains, laterals, etc. The service lines are those privately owned service lines going from the main line to the property line.

Policy Statement. Subsurface improvements shall be made to serve current and projected land use. All installations shall conform to City standards as established by those state and/or federal agencies having jurisdiction over the proposed installations. All installations shall also comply, to the maximum extent feasible, to such quasi-official, nationally recognized, standards as those of the American Insurance Association.

Service lines from the lateral or trunk to the property line for each known or assumed building location shall be installed in conjunction with the construction of the mains.

1.09 POLICIES OF REASSESSMENT. The City of Lowry in constructing or reconstructing any public improvement shall design such improvement to last for a definite period. The life expectancy or service life shall be as stated in the policy statement of this section, or if different, shall be as stated in the Resolution ordering improvement and preparation of plans. When such project needs property owner shall be limited to an amount determined by dividing the actual life of the original improvement by the expected service life of the original improvement.

A. Policy Statement. The following are hereby established as the "life expectancies" or "service lives" of public improvements unless otherwise stated in the resolution ordering improvement and preparation of plans, in which case, the life set forth in the resolution shall govern.

1. Sidewalks - 20 years.
2. Street improvements, including surfacing and curb and gutter - 20 years.
3. Ornamental street lighting - 20 years.
4. Water Mains - 30 years.
5. Sanitary Sewers - 30 years.
6. Storm Sewers - 30 years.

1.10 ASSESSMENT COMPUTATIONS.

Street and Curb and Gutter Improvements.

1. New Constructions. All new streets will be assessed 100% to the abutting benefited properties. Street and curb and gutter improvements will normally be assessed by the adjusted front foot method, however other methods may be utilized if conditions warrant. Cost of construction of streets shall be assessed based on the minimum design of 7-ton axle load in residential areas and 9-ton axle load in commercial and industrial areas. Oversizing costs which are incurred in excess of the above may be paid by: (1) State funds, (2) larger assessment rates to other benefited properties, (3) general obligation funds, or (4) any other method or combination of methods authorized by the City Council.
2. Reconstruction and Overlays. All street reconstructions and overlays shall be 50% assessed. New curb and gutter shall be 100% assessed.

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3. Gravel streets. Upgrading an existing gravel street by adding pavement, curb and gutter shall be considered new construction and all costs assessed 100%.
4. Seal Coats. Seal coats will not be assessed.
5. Alleys. Upgrading existing gravel alleys by adding pavement will be assessed 66 2/3% to the block being improved. Reconstructing existing paved alleys will be 100% assessed, except in the central Business District (CBD). For CBD alleys, the City Council will determine the amount assessed at the public hearing considering the improvements..

B. Sidewalks and Trails.

1. New Construction. New sidewalks will be assessed 50% to the abutting property on which the sidewalk is located and 50% to the City
2. Reconstruction. Replacement sidewalks will be assessed 50% to the abutting Property and 50% to the City.
3. Trails. Bituminous walkways and/or bicycle trails will not be assess, but rather Funded 100% by the City. New subdivisions will be assessed 100% for bituminous Walkways/bicycle trails.

C. Storm Sewer Improvements. Storm sewers can be assessed 100%. Storm sewers in new subdivisions are considered an assessable improvement on an area basis.

D. Sanitary Sewer Assessments. Assessments for sanitary sewer in residential areas shall be based upon the cost of construction of 8 inch mains, which is the smallest size installed in residential areas of the City. Assessments for sanitary sewers in commercial and industrial areas will be based upon a standard size of 12 inch mains.

Over sizing costs due to larger mains and larger appurtenances will be paid for by a combination of availability charges, user charges and/or trunk area assessment charges. Trunk area sewer assessments shall be levied to all unplatted property at the time of development. The sewer area rate shall be \$700 per gross acre for single family residential property and \$1000 per acre for all other land use types. Services installed to individual properties shall be fully assessed to the benefiting property.

Normally, water and sanitary sewer will be assessed on an area wide basis (square foot or acres), but in certain situations the per lot method, per foot method or [per parcel at City Council's discretion. Water/sewer extension and storm sewers can be assessed to all owners affected.

Lateral benefit from major trunk sewers or interceptors will be assessed to the properties benefited by the sewer. Any oversizing cost will be assessed as described above.

The replacement of existing sewers will be assessed 50% with the remaining costs paid for by other funding sources identified by the City Council

Individual service lines installed directly to specified properties will be fully assessed directly to the benefited properties. Properties that have existing sanitary services, but do not have mainline sewers adjacent, across or up to their property lines will pay 50% of the assessment rate for the new mainline sanitary sewer as well as 100% of the cost associated with replacing the service lines.

Any existing service lines found to be defective as part of a street reconstruction shall be replaced as part of the project and assessed directly to the property.

E. Watermain Assessments. Assessments for watermains in residential areas shall be based upon the cost of construction of 8 inch mains, which is the smallest size installed in residential areas of the City. Assessments for watermains in commercial and industrial area will be based upon the standard size of 12 inch mains.

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Oversizing costs due to larger mains and larger appurtenance will be paid for by a combination of availability charges, user charges and/or trunk area assessment charges. Trunk area water assessments shall be levied against all unplatted property at the time of development. The water area rate shall be \$700 per gross acre for single family property and \$1000 per gross acre for all other properties. Services installed to individual properties shall be fully assessed to the benefiting property.

Normally, watermains will be assessed on a per lot basis, but in certain situations the area or adjusted front method may be utilized at the City Commission's discretion.

The replacement of existing watermains will be assessed 50%.

Lateral benefit from major trunk water mains will be assessed to properties benefited by the water main. Lateral water main assessments will be based on the costs for an equivalent 8 inch diameter water main for residential properties and for an equivalent 12 inch diameter water main for residential properties and for an equivalent 12 inch diameter water main for commercial/industrial properties.

Individual service lines installed directly to specified properties will be fully assessed directly to the benefited properties. Properties that have existing water services, but do not have mainline watermains adjacent, across or up to their property lines will pay 50% of the assessment rate for the new watermain as well as 100% of the cost associated with replacing the service lines.

Any existing service lines found to be defective as part of the project will be assessed directly to the property.

- F. Street Boulevard Trees. All street boulevard trees installed as part of new street constructions or in reconstructing existing streets shall be included as part of the overall project costs included in the assessment calculations.
- G. Street Lights. All costs for new street lights installed as part of constructing new streets or street lights relocated as part of reconstructing streets will be included in the overall project costs and included in the assessment calculations.
- H. Other Improvements. Based on the City Council determinations, all other improvements listed in Section II A, Part 7 may be fully assessed or assessed in part.

1.11 DEFERMENT OF SPECIAL ASSESSMENTS.

Subd. 1. The City Council may defer the payment of any special 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, and the City Administrator is hereby authorized to record the deferment of special assessments according to State Statute 435.193 – 435.195.

Subd. 2. The deferment shall be granted for as long a period of time as the hardship exists and the conditions according to State Statute 429.061 subdivision 1 have been met.

Subd. 3. The entire amount of deferred special assessments shall be due within sixty days after loss of eligibility by the applicant. If the special assessment is not paid within the sixty days, the City Administrator shall add thereto interest at a per annum interest rate of two percent (2%) above the bond interest rate(or Bond Counsel recommendation) from date assessments were adopted through December 31 of the following year. The total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the City Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the City Council may order that the applicant pay within sixty day a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and

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interest) with the balance thereafter paid according to the terms and conditions of the original special assessments.

Subd. 4. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

- A. The death of the owner when there is no spouse who is eligible for deferment.
- B. The sale, transfer or subdivision of all or any part of the property.
- C. Loss of homestead status on the property.
- D. Determination by the City Council for any reason that there would be hardship to require immediate or partial payment.

Adopted by the City Council of the City of Lowry, Pope County, Minnesota on this _____ day of _____, 2003.

Brian Piekarski
Mayor

ATTEST:

Motion by: Virgil Cozairh
Second by: Merl Farber

Debbie Piekarski
City Clerk