

## PROPOSED CHANGES-01.09.24

### 5.0 City of Madison Policy for the Assessment of Sanitary Sewer Improvements

Approved by CC on \_\_\_\_\_, 2024, Resolution \_\_\_\_\_, ID \_\_\_\_\_.

This policy guides the preparation of special assessments for sanitary sewer and lateral installation by the City of Madison. The City places special assessments on properties under its police powers pursuant to Wis. Stat. § 66.0701 and Madison General Ordinances (MGO) Sec. 4.09. An assessment district must be approved by the Common Council prior to Board of Public Works and Common Council consideration of the assessments.

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, meaning 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 may deviate from this policy.

This policy does not address the calculation of sewer related impact fees, which are separately created under Wis. Stat. § 66.0617 and MGO Ch. 20. This assessment policy is not intended to apply to lands outside of the City unless there is an agreement with the other municipality to assess improvements or the other municipality agrees to permit the City to assess the improvements. Where properties outside the City are assessed, those properties may be subject to differing special assessment policies when those policies have otherwise been established through an approved intergovernmental agreement or cooperative plan between the subject municipality and the City of Madison.

This assessment policy applies to properties in the City, even if they are not connected, or don't plan to connect, to City sewer. All properties shall be in the City's Central Urban Service Area prior to connecting to City sewer. For the purposes of this policy, development includes redevelopment and other infill development.

#### 5.1 Interceptor Sewers and Local Sewers

Sewers greater than 15 inches in diameter are considered Interceptor Sewers. Sewers 15 inches or less in diameter are considered Local Sewers. Where interceptor sewers are constructed by the City to serve both local and area wide connections, the City shall assess the equivalent cost of a 15 inch diameter sewer to the properties that can directly connect to the interceptor sewer.

The equivalent cost of a 15 inch sewer shall be determined by prorating the end area of the pipes. To calculate the equivalent cost of a 15 inch sewer, the end area of a 15 inch sewer is divided by the

end area of the interceptor sewer to determine a percent to be applied to the total cost of the interceptor sewer. The equivalent cost of a 15 inch sewer shall be assessed to those properties that can connect directly to the interceptor sewer in accordance with Section 5.6. The remainder may be assessed to properties that are benefited by the interceptor sewer but cannot directly connect to the interceptor sewer in accordance with Section 5.7.

## **5.2 Sewer Systems Constructed by Developers and Dedicated to the City**

The infrastructure required for new development in the City is typically constructed by a developer at the developer's expense. The work is completed under a development agreement in accordance with MGO 16.23(7), Required Improvements for Subdivisions. Where the City requires the developer to construct an Interceptor Sewer, the developer shall be eligible for partial reimbursement. Subject to adequate budgetary authority and subject to the statutory limits for public works construction without public bidding (Currently \$25,000 maximum), the Sewer Utility shall reimburse the developer the material cost difference between the sewer being constructed and the maximum size Local Sewer (15 inch diameter). The City may recover the incremental cost incurred to construct the interceptor sewer in accordance with section 5.7.

## **5.3 Properties Not Assessed for Sanitary Sewer Improvements**

The following properties shall not be assessed for sanitary sewer except as noted.

1. Storm Water Management. Lots used for public storm water management and not requiring sewer service are not assessed unless the lot is developable after further subdivision.
2. Electric or Gas Utility Owned Parcels – Utility owned parcels used for electric or gas transmission and not requiring sanitary sewer service are not assessed unless the lot is developable after further subdivision.
3. Sewer Utility Owned - Lots owned by the Sewer Utility needed for the operation of the sewerage collection system unless the lot is developable after further subdivision.
4. Lots Currently Served With Sanitary Sewer - Lots that are currently served by a sanitary sewer lateral and cannot be further subdivided or developed in such a way as to benefit from the sewer being assessed, as determined by the City Engineer.
5. Environmental Corridor - Lots entirely within a mapped environmental corridor as determined by the Capital Area Regional Planning Commission.
6. Future Connections - Where a dead end right of way is likely temporary and the street and sewer are likely to be extended in the future, the parcel(s) that could access the end of the right of way shall not be assessed unless the sewer is considered an Interceptor Sewer in accordance with Section 5.1.
7. Public Parkland - Public park land where there is no bathroom facilities needed or anticipated.

## **5.4 Assessment Method, Reconstruction of Existing Sewers Not Related to Redevelopment**

The cost to reconstruct the existing sewer is not assessed. The cost to install a lateral is assessed in accordance with section 5.6.4 of this policy.

## **5.5 Reconstruction of Existing Sewers Required for Redevelopment.**

When new development requires additional capacity, upsizing the City sewer in order for the City to maintain residual capacity in the City sewer is the responsibility of the developer and it is generally included as a condition of development. The developer shall enter into a development agreement with the City to replace the existing sewer at the developer's expense. The costs of upsizing a City sewer for development are not assessable.

## **5.6 Assessment Method, Construction of New Sewers Serving Lands Without Sanitary Sewer.**

The assessment for sanitary sewers extended to serve unserved properties will consist of four components.

1. Proximity Assessment (Section 5.6.2)
2. Area Assessment (Section 5.6.3)
3. Lateral Assessment (Section 5.6.4)
4. Madison Metropolitan Sewerage District (MMSD) Fees (Section 5.6.5)

Only parcels that directly benefit from and can connect directly to the sewer shall be assessed under this section, even if the parcel does not connect to the sewer at the time of the project...

### **5.6.1 Total Proximity Cost and Total Area Assessment Cost**

Subject to the limitations in section 5.1, the total cost of the sewer system installation, except for lateral costs, City Sewer Area Connection Charges, and MMSD Fees, shall be divided in two. Half the cost shall be assessed to the properties using the Proximity Assessment and this is called the Total Proximity Cost. Half of the cost shall be assessed to the properties using the Area Assessment and this is called the Total Area Assessment Cost.

### **5.6.2 Proximity Assessment**

The Proximity Assessment Rate is calculated by dividing the Total Proximity Cost by the Total Proximity Area to come up with a cost per area. The Total Proximity Area is the sum of the all of the Parcel Proximity Areas within the assessment district. The Proximity Assessment for a parcel is determined by multiplying the Proximity Area for the parcel by the Proximity Assessment Rate.

The Parcel Proximity Area is determined by applying the following criteria to parcels within the assessment district:

1. The Parcel Proximity Area is the area within a parcel between the right of way line of the street containing the assessable pipe and a line parallel to and 200 feet back from the right of way line except as noted herein. If the pipe is in a private right of way, determine the area the same way as if the pipe was in a public right of way. If the pipe is not in a right of way, use the area that is between the pipe and a line parallel to and 200 feet away from the pipe, except as noted herein.
2. If the pipe does not extend the entire length of the parcel, the Parcel Proximity Area shall

extend 200 feet beyond the center of the last manhole. However, the Proximity Area should not extend beyond the parcel fronting on the sewer.

3. Where pipes end in the bulb of a public or private cul-de-sac, the Parcel Proximity Area is the area between the right of way line of the cul-de-sac and a line parallel to and 200 feet back from the right of way line.
4. Where pipes end in a public or private dead end right of way without a bulb, the Parcel Proximity Area is the area defined by extending out beyond the end of the right of way the lines parallel to and 200 feet back from the right of way and intersecting those lines with a line parallel to and 200 feet beyond the right of way line at the end of the right of way.
5. Where pipes end in an easement, the Parcel Proximity Area is the area defined by extending out beyond the end of the pipe the lines parallel to and 200 feet back from the pipe and intersecting those lines with a line generally perpendicular to said extended lines and 200 feet beyond the center of the last manhole.
6. Where the sewer system being assessed includes a pipe in both streets abutting a corner lot, the Proximity Area shall wrap around corner lots following the offset created by the line 200 feet back from the right of way line. Overlapping Proximity Areas shall only be counted once.
7. Proximity Areas used for previously assessed parcels shall be deducted from the current Proximity Area so that no parcel is assessed twice for the same Proximity Area.
8. Where the sewer being assessed connects to an existing sewer, the City Engineer shall determine if any parcels that can directly connect to the existing sewer are benefited by the sewer being assessed. Where the City Engineer finds parcels that can connect to the existing sewer that are benefited by the sewer being assessed, the Proximity Area shall begin at the point where the parcel being assessed begins to benefit from the sewer being assessed as determined by the City Engineer. Parcels served by an existing sanitary sewer and not benefited by the sewer being assessed are not assessed per Section 5.3.4.
9. The area of any Capital Area Regional Planning Commission Mapped Environmental Corridors or other lands permanently deed restricted to prohibit development shall not be included in the Proximity Area.
10. Wetlands, as determined by the City Engineer or as legally delineated in accordance with DNR procedure, shall not be included in the Proximity Area. Small wetland areas reasonably likely to be allowed to be filled by the Wisconsin DNR shall not be deducted.
11. Right of way easements are excluded from the Parcel Proximity Area.
12. A parcel's Proximity Area shall not be outside of the area used for the Area Assessment.

### **5.6.3 Area Assessment**

The Area Assessment Rate is calculated by dividing the Total Area Assessment Cost by the Total Assessable Area to come up with a cost per area. The Total Assessable Area is the sum of the all of the Parcel Assessable Areas within the assessment district. The Area Assessment for a parcel is determined by multiplying the Parcel Assessable Area by the Area Assessment Rate.

The Gross Parcel Area shall be determined by the City Engineer using data available from the City Assessor, recorded plat map data and/or by computation. The Parcel Assessable Area shall equal the Gross Parcel Area less any adjustments provided below:

1. The area of any Capital Area Regional Planning Commission Mapped Environmental Corridors or other lands permanently deed restricted to prohibit development shall be deducted from the Gross Parcel Area.
2. Wetlands, as determined by the City Engineer or as legally delineated in accordance with DNR procedure, shall be deducted from the Gross Parcel Area. Small wetland areas reasonably likely to be allowed to be filled by the Wisconsin DNR shall not be deducted.
3. Easement areas on lots dedicated to the public for stormwater management shall be deducted from the Gross Parcel Area. Private stormwater management areas and private stormwater or drainage related easements shall not be deducted from the Gross Parcel Area.
4. The unserviceable area of any lot that can be reasonably subdivided or further developed and cannot be served or is not likely to be served by the sewer being assessed, as determined by the City Engineer, shall be deducted from the Gross Parcel Area. This provision will apply to a lot that cannot be fully served because the sewer is approaching the top of a hill and another sewer will need to be constructed from a different direction in order to serve the remainder of the property. The intent of this exclusion is to address lots with significant areas that cannot be served by the sewer being assessed. It is not uncommon for small portions of lots to be at an elevation that cannot be served and in these cases, the entire lot area shall be assessed.
5. Lots that abut a street on both the front and back of the parcel are considered double frontage lots and these lots require special consideration. If the double frontage lot is not of sufficient depth to allow for the future division of the parcel, no deduction for double frontage lots shall be applied. If the double frontage lot can reasonably be further divided such that the lot can benefit from the sewer being installed, or is likely to benefit from another sewer to be installed in the future, the portion of the lot that is served or will likely be served from another side shall be deducted from the Gross Parcel Area as determined by the City Engineer.
6. Public road right of way easements shall be deducted from the Gross Parcel Area.
7. Where the sewer being assessed connects to an existing sewer, the City Engineer shall determine if any parcels that can directly connect to the existing sewer are benefited by the sewer being assessed. Where the City Engineer finds parcels that can connect to the existing sewer that are benefited by the sewer being assessed, the area of the parcel that is not benefited by the sewer being assessed shall be deducted from the Gross Parcel Area. For parcels not assessed, see section 5.3.4.
8. After all reductions above have been applied, a thirty three percent (33%) reduction shall be applied to the remaining area if the lot is likely to be further divided and is likely to be required to make significant dedications to the public for roadways, parks and/or stormwater management.
9. The Parcel Proximity Area used to determine the Proximity Assessment shall not be deducted from Gross Area when determining the Parcel Assessable Area.

#### **5.6.4 Lateral Assessment**

Where no lateral existed prior or where a significantly larger lateral is replacing an existing lateral, the full cost of the installation of a new sanitary sewer lateral for an individual property will be assessed directly to the property served by the lateral, even if the property does not

immediately take service off of the lateral.

The City Engineer may determine that it is more equitable to take the total cost of all laterals on the project divided by the number of laterals to determine a common lateral assessment for the properties when all of the following are met:

1. The sewer is being installed as part of a street construction project.
2. All properties are receiving laterals for the first time.
3. All properties are similar such that the difference in the cost to the property owner for the lateral installation is due primarily to the location of the sewer in the right of way.

Properties having a lateral replaced with a lateral of similar size shall be assessed twenty five percent (25%) of the cost of the lateral replacement. When an owner requests a lateral installation in addition to the lateral being replaced or requests a significantly larger lateral, the property owner shall be responsible for the full cost of the new lateral. Where laterals are replaced outside of a city project to reconstruct the street or replace a sewer, the full cost of the lateral replacement is paid by the property owner.

In some instances, sewers located in back yards or side yards are relocated to the street right of way in front of the buildings. In those cases, residents may be eligible for reimbursement of some or all of their expenses incurred to relocate the lateral. See Policy for Funding Plumbing Conversions with Sewer Relocations.(File #33225, 1/5/2014)

### **5.6.5 Madison Metropolitan Sewerage District (MMSD) Fees**

The MMSD fees consist of two components, the Conveyance Facility Connection Charges (CFCC) and the Treatment Plant Connection Charges TPCC. MMSD fees must be paid by the City when the sewer is built in front of the parcel. The CFCC and TPCC charges shall be determined for each parcel generating MMSD fees and these charges shall be assessed directly to the parcel as a project cost.

The MMSD areas used in determining their charges do not necessarily match the areas used to determine the City's Area Assessment. The areas used to determine the MMSD fees are reduced by MMSD for mapped Environmental Corridors and permanent no build deed restrictions. As a customer of MMSD, the City is responsible for collection and payment of MMSD connection fees.

MMSD fees become due when MMSD determines sewer to be available for connection to a property. This happens with lot redevelopment or when sewer extension permits are applied for.

If properties connect to City sewer without payment of MMSD fees (either by a City assessable project or by individual properties), penalties for delinquent payment of MMSD connection fees will be enforced.

### **5.7 Interceptor Sewer Cost Recovery**

The City Engineer may recover the incremental cost of an interceptor as indicated in section 5.1



and 5.2 through the use of special assessments or connection charges. The assessment rate or connection charge rate is established by dividing the total incremental cost to construct the interceptor by the area benefitted. The area benefitted is the area that can drain to the sewer less any areas directly served by and assessed for the sewer. The area is computed in accordance with section 5.6.3.

## **5.8 City Sewer Area Connection Fees**

City Sewer Area Connection Charges, if applicable, shall also be due upon connection to City sewer. These fees are for City sewer infrastructure improvements previously completed downstream from the proposed sewer improvements. The City Sewer Area Charges may be included on the schedule of assessments for the project for informational purposes only. They are not an assessable cost.

## **5.9 City Sewer Impact Fees**

City Sewer Impact Fees, as established under Wis. Stat. § 66.0617 and MGO Ch. 20, will apply to many properties within the City and they are payable upon applying for a building permit or upon connecting an existing building to the sewer. By law, impact fee costs cannot be included with the Sewer Assessments. Impact fees are common and individuals who are unsure if impact fees will apply to their parcel should contact City of Madison Engineering to learn if the fees apply.

## **5.10 Deferred Assessments for Agricultural Properties**

A property zoned or used for agricultural may request that their assessments be deferred up to 10 years and be repaid in installments over 8 years following the deferral period in accordance with MGO section 4.081.

A property zoned or used for agricultural 5 acres or larger and containing a residence that is required to connect to City sewer, or is connected to City sewer, may request that the assessments for a portion of their parcel be deferred as provided in MGO 4.081. The portion of the assessments that are not deferred include any costs directly related to serving the residence property including the lateral costs for the residence and any required restoration after installation of the lateral, 0.5 acres of the area assessment, and 0.5 acres of the proximity assessment which equates to 108.9 feet of frontage. The remainder of the sewer assessments may be deferred in accordance with MGO 4.081.

Except as provided in Subdivision MGO 4.081(4)(b), all outstanding deferred assessments on the property, or the remaining balance if installments are being applied following the deferral period, shall be paid in full prior to the occurrence of any of the actions contained in 4.081(4)(a).

In accordance with 4.081(6), whenever the due date of a special assessment shall be deferred under this section the following note shall be added to the schedule of assessments or

resolution: "In accordance with Madison General Ordinance 4.081, the assessment for parcel(s) \_\_\_\_\_ shall be deferred for \_ years with interest. Upon completion of the deferment period, payment shall be made with interest in \_\_\_\_\_ equal yearly installments. In the event of certain occurrences as outlined in Sec. 4.081(4), the assessments shall be paid in full prior to the end of the deferral period."

Where lands assessed are lands outside of the City of Madison and are included in a cooperative plan with an adjacent township, the provisions of the cooperative plan regarding special assessments shall govern and may vary from the provision contained herein.

### **5.11 Exemption for Minimal 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.

To account for the cost of mailings and staff time to collect an assessment, the minimum total assessment amount for all items on the schedule of assessment (street, storm, sanitary, etc.) shall be \$5.00.

The City will not levy any total assessment under \$5.00 to the property. The City shall pay this share as a part of the City's project costs.