

4.0 City of Madison Policy for the Assessment of Storm Sewer and Drainage Improvements

Approved by CC on _____, 2022, Resolution _____, ID _____.

This policy has been developed to guide the preparation of special assessments for storm sewer improvements undertaken by the City of Madison pursuant to Madison General Ordinance (MGO) Sec. 4.09 and Wis. Stat. § 66.0701. 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 drainage 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.

This assessment policy applies to properties in the City, even if they are not connected, or do not plan to connect, to City storm sewers.

4.1 DEFINITIONS:

- (1) Street Reconstruction Project – An existing street which is being resurfaced, or reconstructed. This includes the improvement of roads that do not currently have curb and gutter and are being improved to include curb and gutter.
- (2) New Street Construction (Public) – The construction of a street that is being constructed where one did not exist before, and for any number of reasons is being constructed by the City under a Public Works Contract put out for Bid by the City for transportation purposes, or at the request of a developer or development.
- (3) New Street Construction (Developer) – The construction of a street that is being constructed where one did not exist before, and is being constructed by a private Developer under the terms of a developer's agreement with the City, and not under a Public Works Contract put out for Bid by the City of Madison.
- (4) Storm Sewer Flood Mitigation Projects – Improvements for increasing storm sewer capacity on an existing street (via pipe, overland flow or other methods) to allow for improved local or regional flood resilience.

4.2 ASSESSMENT COMPONENTS:

There are two (2) primary components used to determine the total assessment apportioned to a benefited parcel:

- Area Assessment: an assessment based on a parcel's area, as calculated in Section 4.3(3).
- Direct Assessment: an assessment based upon specific work or improvements provided to a parcel, as calculated in Section 4.3(1).

How the assessment components are used is provided in the Assessment Policy section below. A particular parcel may be subject to one of the two assessment components or both depending upon the type of project and the needs of the parcel.

4.3 ASSESSMENT POLICY

(1) Direct Assessments

Policy: In all cases, work associated with improvements that serve a singular private property shall be directly assessed to that property as a Direct Assessment.

Direct Assessments includes but are not limited to the following:

- (a) Private services, laterals or connections to the public storm sewer for properties that shall be assessed 100% of cost to connect and/or reconnect to the public system.
- (b) Rain gardens constructed in the public Right of Way as part of a public project shall be assessed directly to the adjacent property owner requesting such work in accordance with the City's Terrace Rain Garden Program in effect at that time.

(2) Storm Sewer Facilities on Street Reconstruction Projects

Policy: Except as provided herein, storm sewers installed or upgraded as part of a Street Reconstruction Projects are not assessed and only Direct Assessments shall apply. The exceptions to this policy are as follows:

- (a) Street Reconstruction Projects with New Development or Redevelopment: The City shall not charge properties on Street Reconstruction Projects for the storm sewer main installed or upgraded as part of the project, unless the required improvements are necessitated by and being made to accommodate new/redevelopment.

IMPLEMENTATION:

- The existing storm system shall be reviewed to be determined if it is in serviceable condition.
- The existing storm sewer system shall be reviewed to determine if it has sufficient capacity and is in a location such that no upgrades to the system are required by MGO to serve the new/redevelopment.
- The existing storm sewer system shall be reviewed to determine if upgrades to the storm sewer are necessary for regional flood mitigation purposes.
- The storm sewer that would be required for the new/redevelopment to meet MGO

requirements shall be designed and a cost estimated prepared.

- If the existing storm sewer does not have sufficient capacity to serve the new/redevelopment properties to meet MGO requirements and the existing storm system is in serviceable condition, the cost of upgrades to the system to serve the new/redevelopment shall be fully attributed and assessed to the new development.
- If the existing storm sewer does not have sufficient capacity to serve the new/redevelopment properties to meet MGO requirements and the existing storm sewer system is in need of replacement, then the assessment to the new/redevelopment properties shall be the incremental cost of replacing the existing system versus replacing and improving the system to meet the demands of the new/redevelopment properties.

(b) Street Reconstruction Projects with Storm Facilities Improvements to Meet Flood Mitigation and New/Redevelopment goals: If, in addition to the needed storm improvements to serve the new/redevelopment under 4.3(2)(a), the City requires upgrades to the storm sewer beyond the minimum design standards for new/redevelopments to address flood mitigation, as described in MGO Chapter 37, assessments shall be calculated as follows:

IMPLEMENTATION:

- The existing storm system shall be reviewed to be determined if it is in serviceable condition.
- The existing storm sewer system shall be reviewed to determine if it has sufficient capacity and is in a location such that no upgrades to the system are required by MGO requirements to serve the new/redevelopment.
- The existing storm sewer system shall be reviewed to determine if upgrades to the storm sewer are necessary for regional flood mitigation purposes.
- The storm sewer that would be required for the new/redevelopment to meet MGO requirements shall be preliminarily designed and a cost estimated prepared.
- If the existing storm sewer does not have sufficient capacity to serve the new/redevelopment properties to meet MGO requirements and regardless of condition of the existing storm system, and regional flood mitigation is required, only the incremental cost to serve the new development over and above the costs to replace and upsize the storm system (for regional flood mitigation) shall be assessed.
- If the existing storm sewer has sufficient capacity to serve the new/redevelopment to meet MGO requirements and regardless of condition of the existing storm sewer system, and regional flood mitigation is required, storm sewer assessments shall be limited to only direct assessments.
- In the absence of a development driven project, storm sewer assessments associated with a flood mitigation project shall be limited to direct assessments.

(3) New Street Construction (Public)

Policy: The cost of constructing storm water improvements on new streets constructed under a City public works contract shall be assessed to benefiting properties using an Area Assessment and, in addition, may include a Direct Assessment where applicable. The Direct Assessment for a property is calculated in accordance with section 4.3(1). Not all parcels will have a direct assessment.

Area Assessments will be calculated as follows:

- (a) The Parcel Assessable Area is the area (square feet) of a parcel as determined by the City Assessor's Office, or as computed by the Engineering Division. Any parcel owned by the Storm Water Utility needed to convey storm water or to meet storm water regulatory requirements, whether acquired in conjunction with the project or acquired previously, shall not be assessed for storm water or street improvements.
- (b) The Total Assessable Area is the sum of the all of the Parcel Assessable Areas within the assessment district.
- (c) The Total Area Assessment Cost is the full cost of all new storm water conveyance, storm water quality, and land acquisition costs within the assessment district that are required to serve (1) the new street, (2) portions of existing development not currently served, and (3) future development, less any direct assessments under section 4.3(1). In determining these costs, the following applies:
 1. Storm water conveyance costs are all costs required to move storm water to a location that can safely accept the water discharged. Storm water conveyance costs include, but are not limited to, all costs for storm water pipes, structures, inlets and greenways. The conveyance cost may also include drainage improvements located outside the assessment district that are required to serve the properties within the assessment district.
 2. Storm water quality costs include any costs needed to meet regulatory requirements regarding the quality of the storm water at its discharge point. New streets, and in some cases reconstructed streets, require stormwater quality treatment to meet City, County and Wisconsin Department on Natural Resources ("WDNR") codes for the new development.
- (d) 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.
- (e) The Area Assessment for a parcel is determined by multiplying the Parcel Assessable Area by the Area Assessment Rate.

(4) New Street Construction (Developer Responsibility)

Policy: In accordance with MGO Sec. 16.23(9)(d)5, all costs associated with the construction of the required public drainage system as part of subdivision development are the responsibility of the Developer. This code provides for an exception upon a determination of the City Engineer that a "significant portion" of the area generating stormwater is beyond the perimeter of the subdivision, or where the cost of storm sewer mains is "significant". In either of those cases, the Developer may request the City install these improvements.

To allow a uniform implementation and understanding of what a "significant portion", or "significant" cost means, a request for cost sharing by the Develop under MGO Sec. 16.23(9)(d)5 shall be considered when:

The storm sewer required to serve a development exceeds a design capacity of 1300 cubic feet per second (CFS).

IMPLEMENTATION: In cases where the City Engineer has received a cost share request and made a determination that a “significant portion” or “significant” cost condition exists, the procedure to move forward shall be as follows:

- The total required design capacity shall be determined by City Engineering staff.
- The City portion of the costs shall be established by flow-apportioned amounts. For example, if the total design flow were 1600 CFS, or 300 CFS more than the design capacity noted above, the City would be responsible for a cost share of $(1600-1300)/1600$ or 18.75% of the pipe material and installation costs.
- Available means of providing the City apportionment of the costs to the Developer shall include, but not be limited to, the following:
 - Direct reimbursement, up to the statutory amount of \$25,000.00 (over which the project must be let as a Public Works project);
 - Direct provision of materials in an amount equal to the City’s apportioned costs;
 - Direct construction of the project via a Public Works project, in which case the project shall be assessed in accord with 4.3 above.
 - Funding of all options noted above are subject to available funding and budgetary approval of the Mayor and Common Council.

(5) Storm Sewer for Flood Mitigation Purposes

Policy: The cost of constructing the Public Storm Sewer for a flood mitigation projects shall not be assessed unless specified in 4.3(2)(b). For any project that is for the sole purpose of flood mitigation purposes (no component of the project is needed to facilitate new development, new street construction, new private connections or terrace rain gardens), the storm sewer and other required improvements shall not be assessed and all costs shall be borne by the Stormwater Utility.

4.4 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 assessments (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.