



CITY OF BURLINGTON, WISCONSIN ALLEYWAY SPECIAL ASSESSMENT POLICY

I. PURPOSE

The purpose of this Policy is to assure fair and equitable cost recovery for alleyway improvements and to set forth a methodology determining the amount of the assessment of such improvements and circumstances on a reasonable basis. It is the policy of the City of Burlington that all properties specially benefiting from public improvements pay their fair share of the cost of such improvements.

Sec. 274-4, of the City's Municipal Code of Ordinances sets for the requirements for imposing special assessments for street and alley improvements and specifically Sec. 274-4(C) states:

274-4 Special assessments for street and alley improvements.

- A. In all cases where existing public streets do not have curb and gutter, abutting properties shall be subject to special assessments in accordance with Wisconsin law for the full cost of curb and gutter construction.
- B. In all cases where public streets do not have asphalt, concrete pavement, or seal coat, abutting properties shall be subject to special assessments in accordance with Wisconsin law for all construction costs.
- C. In all cases where alleys must be resurfaced or reconstructed, abutting properties shall be specially assessed for fifty percent of all construction costs in accordance with Wisconsin law and the City will bear the remaining fifty percent of the construction costs.
- D. Installment payment and deferral of special assessments. The City Council, in its discretion, may allow payment of special assessments in installments, or defer payment of special assessments, as provided in a special assessment policy adopted by resolution of the City Council from time-to-time or by resolution imposing a special assessment for a project as adopted by separate action of the City Council. If any resolution adopted by the City Council pursuant to this section is inconsistent with the requirements of § 66.0715, Wis. Stats., where that statute is applicable, the terms of the statute shall prevail.
- E. The City Council may adopt a special assessment policy by Resolution from time-to-time governing any and all methodologies utilized by the City in determining how

the costs for projects set forth in this Section are allocated among the benefitted abutting properties for the construction of public improvements."

The policies contained herein are designed to serve as a general guide for the Common Council in allocating benefit to properties in order to implement the requirements of Sec. 274-4(C) as set forth above. The Common Council reserves the right to vary from these policies if the assessments derived by imposition of the policies creates obvious inequities, where the assignment of benefit to a particular property is difficult to determine, or because of extreme or unusual circumstances or for other good reason.

II. BACKGROUND

Section §66.0703, Wisconsin State Statutes, provides that municipalities may proceed to specially assess property under either of two optional powers: the police power or the taxing power. The police power allows the local governing body to enact ordinances and take action "...for the health, safety, and welfare of the public." In Burlington, sidewalks are an example where assessments are done under police powers.

The taxing power is the general power of any government to levy taxes to pay for improvements and services provided. Taxing power assessments may not exceed actual benefits over damages. For special assessments levied under the taxing power, benefits are generally determined by standard appraisal methods. The benefit is taken to be the difference between the estimated selling price of the property before and after installation of the improvement.

Under §66.0701, Wisconsin Statutes, the cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost, the resulting damages, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the city, town or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost that may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for the proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

Municipal statutory powers to impose special assessments include both the complete procedure set forth in §66.0703 of the Wisconsin Statutes and the power to adopt an ordinance setting forth a local special assessment procedure under §66.0701, Wisconsin Statutes.

In adopting this policy, the City Council recognizes the unique nature of an alley that is a public right-of-way and the purpose that the alley serves.

III. SPECIAL ASSESSMENT PROCEDURES

The City of Burlington adopts and makes a part of this policy by reference and incorporates the procedures for levying special assessments as contained in Wisconsin Statutes §66.0703 for all public improvements. Whenever the provisions of this policy are contrary to those contained in §66.0703, §66.0907, or other applicable provisions of the Wisconsin Statutes or administrative regulations, the Wisconsin Statutes or administrative regulations shall control.

All special assessments levied in the City of Burlington shall be grounded in the exercise of police powers for the health, safety and welfare of the public.

IV. ASSESSMENT FORMULA OPTIONS

Special assessments may be computed and based on one of the following methods:

A. ADJUSTED FRONT FOOTAGE METHOD

When this method is used, benefit is determined to be proportional to the front footage of the abutting property on the alley. In the adjusted front footage method, odd-shaped lots are adjusted to an average frontage equivalent to the frontage of a rectangular shaped lot of the same depth. This method is declared and found to be more equitable than the simple front footage method and gives consideration to the depth and shape, as well as frontage on the alley and the street. The average rectangular lot in the City of Burlington is hereby determined to be 60' wide by 132' deep for the purpose of calculating special assessments, in the absence of other demonstrated typical lot dimensions for a neighborhood.

Applying the Adjusted Front Footage Method

- (a) Odd-shaped Lots: For odd-shaped lots, such as found on pie shapes or triangular intersections, etc., the adjusted front footage is computed by dividing the area of the lot by 132' or the typical lot depth in the neighborhood, whichever is more appropriate.
- (b) Approximately Rectangular Lots: For a lot that is approximately rectangular, the adjusted front footage is computed by averaging the front and back width of the lot. If the lot is deeper than 132', the width at the 132' depth is used for the back lot line width.
- (c) Rectangular Lots: For the normal rectangular lot, the adjusted front footage is the actual front footage of the lot.
- (d) Shallow Lots: For rectangular lots less than 100' in depth, the adjusted front footage is determined by dividing the actual lot area by 132'. The shallow lot calculation is not intended for use on corner lots.
- (e) Neck or Flag Lots: For lots which have a small frontage on a street, with a narrow strip running back 100' or less to the alley, an adjusted front footage is determined by dividing the actual lot area by 132'.
- (f) Corner Lots: The front footage of the short side and long side of corner lots should be determined using one of the methods described in this section. The footage assessed will be based on the method for each category of improvement and the location of the improvements to be assessed. In those areas where the property lines of a corner lot meet with an arc rather than at a point, the frontage will be one-half (1/2) the arc measurement plus the length of the improved side.

B. AREA METHOD

The use of this method will require the establishment of a per unit cost for the specific public improvement bordering the property, which will then be multiplied by the net developable area of the lot. The developable area of the lot will be determined by calculating the area of the lot and subtracting that portion of the lot which is greater than 20% in slope.

The use of this method bases special assessment on square footage of each lot bordering the improvement and assumes property values may increase with improvement.

C. LOT OR CONNECTION METHOD

The lot or connection method allocates costs and special assessments on the assumption that every lot or every connection to the public right-of-way that is the alley receives the same benefit regardless of the difference in the size or shape of the lot. The use of this method is best suited where there is some uniformity of lots within the subdivision or neighborhood and there exists some uniformity as to the types of uses on the property. This method may be used at the request of petitioners for specific public improvements.

V. ALLEYS

Alleys provide access to the abutting property and improvements to an alley are therefore considered a special benefit, subject to special assessments. It is the policy of the City of Burlington to levy special assessments to recover a portion of the cost of reconstructing or resurfacing alley improvements in accordance with the City ordinance. The Common Council establishes the assessment rates for alley improvements. The Director of Public Works and/or the City Engineer will recommend special assessment rates based on engineering cost estimates for individual projects. The special assessment rates will include engineering and administration costs.

VI. MISCELLANEOUS PROVISIONS

It is the intention of this section of the policy to clarify special circumstances that may arise in establishing the benefit to parcels of land as a result of public improvements completed by the City of Burlington.

- (a) Under the authority granted by §66.0715(2), Wisconsin Statutes, the Common Council may grant deferments of the due date of special assessments levied for public improvements upon such terms and in such manner as prescribed by the City Council and while no use of the improvement is made in connection with the property, or for so long as the property remains undeveloped.
- (b) Improvements to property outside the City limits of the City of Burlington, which abuts the City will be specially assessed under the provisions of Wisconsin Statutes §66.0707, which allows a City to assess abutting property in an adjoining City, Village or Town if the adjoining local jurisdiction approves, by resolution, the imposition of such special assessment levy.
- (c) Special assessments may be paid in the following manner on the unpaid balance

for the alleyway improvement completed subject to final action on the specific assessment by Resolution of the City Council:

- a. The total cost assessed against the abutting properties shall not exceed one-half (50%) of the total cost of the improvements.
- b. The City of Burlington will bear one-half (50%) of the total cost of the improvements.
- c. The assessments against any parcel may be paid in full or in five (5) annual installments with interest at a rate which is one-half (0.5) percent over the City's bonding interest rate. This rate shall be established in the final resolution and noticed with assessments.
- d. Assessments may be billed in advance of placement on the property tax bills and if paid in full by November 30 of the first year will not pay interest.

VII. ALLEY ASSESSMENT SEQUENCE OF PROCEDURE

A. Evaluation – Alley reconstruction and/or resurfacing projects shall be added to the annual Street Improvement Program like any other public roadway in need of maintenance. The City shall review alley pavement conditions and assign a PASER rating for each alley segment in conjunction with the biennial WISLR pavement rating adjustments required by WISDOT. Reconstruction or resurfacing shall be determined on a case-by-case basis depending on the condition assessment and engineering judgement.

B. Task Order

1. Upon inclusion in the annual budget as part of the City's Capital Improvement Plan, the City Engineer will prepare a Task Order to oversee the project. The Task Order will include the following:
 - a. Project scope
 - b. Cost estimate of Engineering services
 - c. General timeline
2. Introduce and adopt a resolution for the Task Order at the Committee of the Whole and Common Council meetings.
3. Mail full engineering report to abutting property owners.
4. City Engineer to prepare full engineering report and advertisement for bids for the work for the project.
 - a. Publish advertisement as a Class 2 notice (two times for two consecutive weeks) and put on City website.
 - b. City Engineer to conduct Bid Opening at the Department of Public Works Facility or online in a publicly accessible meeting
5. Introduce and adopt a resolution for the Award of Bid at the Committee of the Whole and Common Council meetings to include the following:
 - a. Resolution
 - b. Bid tab

- c. Project scope

C. Special Assessment Procedures (Summary of Wis. Stat. §66.0703)

1. Introduce a preliminary resolution declaring assessment powers at the Committee of the Whole meeting. The resolution shall describe:
 - a. The contemplated purpose
 - b. The limits of the proposed assessment district
 - c. The number of installments in which the special assessments may be paid
 - d. Direct the proper municipal officer or employee to make a report on the proposal
2. Adoption of the preliminary resolution for assessment by the Common Council and introduction of the award of bid resolution.
3. A report, to be filed with the municipal clerk for public inspection, shall be created consisting of:
 - a. Preliminary or final plans and specifications.
 - b. An estimate of the entire cost of the proposed work or improvement.
 - c. An estimate, as to each parcel of property affected, of:
 - i. The assessment of benefits to be levied.
 - ii. The damages to be awarded for property taken or damaged.
 - iii. The net amount of the benefits over damages or the net amount of the damages over benefits.
 - d. A statement that the property against which the assessments are proposed is benefited if the work or improvement constitutes an exercise of the police power.
4. Upon completion and filing of the report with the City, the city shall advertise a public hearing by publishing a Class 1 notice (one time) three weeks prior to the public hearing. Notice shall include:
 - a. Public hearing date and location
 - b. Nature of the proposed work or improvement
 - c. The general boundary lines of the proposed assessment district
 - d. The place where a copy of the report may be inspected
5. Mail public hearing notice to all affected property owners and interested persons at least 10 days before the hearing.
6. Introduce a final resolution declaring assessment powers at the Committee of the Whole meeting to include the following:
 - a. Resolution
 - b. Engineer's recommendation
 - c. Bid tabulation
7. Hold a Public hearing at the Common Council meeting not less than 10 nor more than 40 days after publication of the hearing notice.
8. After the hearing, the City Council may approve the final resolution for alleyway assessments, or disapprove, modify or refer the report to the

designated official with directions to change the plans and specifications and to accomplish a fair and equitable assessment.

9. Publish the adopted final resolution for alleyway assessments as a Class 1 notice (one time).
10. Send the signed final resolution to every interested person. The City may also send updated estimates, if any.
11. City Council reserves the right to delay and adopt the Final Resolution after a project is completed and all final costs are determined.

D. Pre-construction/Construction

1. Conduct a pre-construction meeting with awarded Contractor, sub-contractors and utilities.
2. Mail out project update letter to abutting property owners.
3. Complete project construction.

E. Payment

1. After completion of the project, final calculations are made.
2. If the actual cost of any project, upon completion or after the receipt of bids, is found to vary materially from the estimates, if any assessment is void or invalid, or if the City Council decides to reconsider and reopen any assessment, it may, after giving notice and after a public hearing, amend, cancel or confirm the prior assessment. A notice of the resolution amending, cancelling or confirming the prior assessment shall be given by the clerk to all interested persons.
3. If the cost of the project is less than the special assessments levied, the City Council, without notice or hearing, shall reduce each special assessment proportionately and if any assessments or installments have been paid the excess over cost shall be applied to reduce succeeding unpaid installments, if the property owner has elected to pay in installments, or refunded to the property owner.
4. Invoices are sent to the abutting property owners in September, with a due date of November 30 of that year.
5. Assessments paid in full by November 30 of the first year will not pay interest.
6. If not paid in full, the assessment will go on the real estate tax bill spread out over five years.
7. The City Treasurer will track assessment payments annually.