

## **ORDINANCE NO. 22**

### **An Ordinance Governing Local Improvements and Special Assessments**

**The City Council of Nevis ordains:**

#### **Section 1. Purpose**

The purpose of this ordinance is to establish the general policy relating to the construction or reconstruction of local improvements, which may be paid wholly or in part with special assessments, and to provide for fairness and consistency on improvements financed and paid for by the city and affected property owners.

These policies shall serve as a guide for this and future City Councils, for administrative personnel, and as a source of information for all persons concerned with such matters. It is the intent and purpose of these policies to provide for and ensure consistent, uniform, fair and equitable treatment, insofar as is practical and possible in regard to the assessment of cost for benefits to property for various public improvements within the City of Nevis.

The City Council hereby declares that the assessment policies contained herein are the policies that the City of Nevis is dedicated to follow as nearly as possible and practical, and that all improvement costs, whenever possible, shall be assessed against benefited property as set forth in these policy statements, and that any assessable share of cost against properties or lands outside the City limits shall be deferred until such area is annexed to the City and then the assessments shall be spread for collection as set forth in these policies.

Example: If sewer and water mains are installed along a city limit street (West Ave.), the project costs should be divided between properties inside the city and those outside the city. The properties inside the city will be assessed at the time of the project. The portion of project costs attributable to the properties outside the city limits would be assessed at the time they are annexed into the city.

## **Section 2. Assessment Policies Applicable to All Improvements**

Improvements for construction of water distribution lines, sewage lines, storm drainage, curb and gutter, street improvements, sidewalks, lighting or other assessable improvements may be undertaken upon City Council initiation or petition of the affected property owners.

Where an improvement is of special benefit to properties in a definable area, it is the intent to levy special assessments on the benefited properties. Improvement costs shall, whenever possible, be assessed in full against the benefited property, thereby keeping the improvement costs chargeable to the City to a minimum.

It is the intent of the City Council that the application of these policies results in assessments that are uniform as applied to the same class of property, and that assessments do not exceed the special benefit as measured by the increase in the market value of land due to the improvement.

Subd. 1 - The project cost of an improvement shall be deemed to include the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing, right-of-ways, interest costs incurred by the City between the time money is borrowed for the improvement and special assessments are levied for collection; and any other costs which, in the opinion of the City Council, should be included as part of the total project cost.

Subd. 2 - Where the project cost of an improvement is not entirely attributable 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 costs which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served.

Subd. 3 - If grant money is received from the federal government, from the State of Minnesota or from any other source to defray a portion of the costs of a given improvement, such

grant money will be used first to reduce the city cost of the improvement. If the grant money is greater than normal city cost, the remainder of the aid will be used to reduce the special assessments against the benefiting properties, with such reduction to be applied on a *pro rata* basis.

Subd. 4 - The assessable cost of an improvement shall be defined as being those costs which, in the opinion of the City Council, are attributable to the need for service in the area served by the improvement. Said assessable cost shall be equal to the project cost of the current project as defined above, minus city cost as defined above, minus any other grant money credited as above described.

Subd. 5 - 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 (adjusted front footage, area or lot/unit as described in Section 3) as if such property were privately owned.

Subd. 6 - Assessments may be spread over such period of time as the City Council shall approve.

Subd. 7 - In the event the literal application of the provisions outlined herein would result in an inequitable distribution of special assessments, the City Council reserves the right to adjust the policy so as to achieve a more equitable distribution.

Subd.8 - The City Council reserves the right to set an interest rate on special assessments, and in doing so, will set such a rate that is reasonably related to the bond interest rate should the project be financed with bonds, or if not, such a rate that is reasonably related to the interest the City would have earned on the funds. However, in either case, the City Council may reasonably set the assessment interest rate somewhat higher in order to offset the additional administrative costs and other costs involved in carrying the assessments.

### Section 3. Assessment Units

The objective is to choose an assessment method that will arrive at a reasonable, fair and equitable assessment that will be uniform upon the same class of property within the assessed area. The most frequently recognized assessment methods are the **adjusted front footage assessment, area assessment, and lot assessment**. Depending upon the individual project, any one or a combination of these methods may be utilized to arrive at an appropriate cost distribution. City staff will consider all methods and weigh their applicability to the project and present a recommendation to the City Council in the form of a mock assessment roll. A description of each assessment and its corresponding policy application is presented.

Each lot or parcel shall be assessed on the basis of its share of the appropriate assessable units.

**Sub. 1 - Adjusted front footage (frontage).** 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. The following procedures will apply when calculating adjusted front footage. The selection of the appropriate procedures will be determined by the specific 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.

- A. For rectangular interior lots: the frontage shall be equal to the dimension of the side of the lot abutting the improvement.
- B. For rectangular corner lots: the frontage shall be the address side of the lot. Under circumstances where the City constructs and assesses a project on one side only of a rectangular corner lot, and performs the same type, or like kind, construction project on the remaining side of the rectangular corner lot within a ten year period of the first project, the second side of the lot shall be assessed as follows: first 150 feet shall be assessed at 50% and additional footage at 100%.
- C. For **irregularly shaped, interior lots** with 4 sides or less, the frontage shall be equal to the average width of the lot.
- D. For lots having more than 4 apparent sides which could be legally subdivided per City Codes (L shaped, etc.) the adjusted front footage shall be equal to the front of a normal rectangular lot with 150 feet of depth and the same total area (area divided by 150) of irregular non-4-sided lot.

- E. Where frontage roads along highways are deemed of benefit to commercial and industrial properties, the entire costs of any improvements on such frontage roads shall be assessable to the adjacent properties, even if only those properties on one side of such frontage roads are benefited.

**Subdivision 2.** Area shall be defined as the gross area of the parcel or lot which is benefited, in terms of square feet or acres. All property within district boundaries is to be included. The City Engineer shall determine district boundaries. When determining the assessable area, the following considerations will be given:

A. **Ponding Assessment consideration:** Lakes, ponds and wetlands shall be considered a part of the assessable area of a parcel.

B. **Road Right-of-Way Assessment Consideration:** Up to 20 percent (20%) of the gross acreage may be deducted for street right-of-way purposes within unplatted parcels of five acres or more depending upon the parcel configuration and is only applicable to single family residential use. Parcels of less than five acres may not qualify and may be assessed full acreage. The reason for this size restriction is that, in most instances, parcels of less than five acres cannot support an internal public road system.

C. **Park Dedication Assessment Consideration:** When parkland is dedicated as part of a residential development, as required by subdivisions in the zoning ordinance, the developer shall not be assessed an acreage charge on the portion of land dedicated. (Refer to Article III, Division 80 Subdivisions, Section 85-120 of the Nevis Zoning Ordinance.)

**Subdivision 3. Lot or unit.** When the City Council determines that the assessable costs would be more equitably distributed on a unit basis, the assessable unit may be the lot (i.e., a uniform per lot assessment), residential equivalent connection (REC), or other equitable unit adopted by the Council. The following REC chart will apply on a per unit basis, subject to adjustment by the Council for any inequities:

Single family	1.00 REC
Duplex	1.00 REC
Condominium	.80 REC
Multifamily (3 units or more)	.80 REC
Townhouse	.80 REC

Commercial	2.00 REC
Industrial	2.00 REC

Rationale: The unit approach has proven to be the best method in those instances whereby the improvement largely benefits everyone to the same degree and the cost of the improvement is not generally affected by parcel size.

**Section 4. Assessable Improvements**

**Subd. 1 Sanitary Sewer and Water Trunk Improvements.** All water and sanitary sewer facilities, which represent new service to areas previously without City utility service, shall be assessed at the rate of one hundred percent (100%) of their cost of installation against benefited property as stated in Section 3.

**Subd. 2 Oversizing.** In the event oversized trunk lines are necessary to provide adequate service and capacity for areas beyond the specific area in question, then the oversized trunk line additional cost shall be assumed by the City.

**Subd. 3 Streets.** When a commercial or residential street is paved with concrete, bituminous mat, or other permanent surface, 100% of the cost of the pavement and its associated base course shall be assessed on the basis of frontage.

**Subd. 4 Concrete Curb and Gutter.** The cost of construction of curbs and gutters on any street shall be assessed 100% on the basis of frontage.

**Sub. 5 Overlay.** As an alternative to reconstruction, the City may resurface or overlay the street in accordance with the recommendation of the City Engineer. In this event, the City shall assume 50% of the total cost of such minor improvement, with the remaining 50% to be assessed to the abutting property owners.

**Subd. 6 Sidewalk improvements** may be done in conjunction with a street reconstruction or as a separate project. In any event, sidewalks requested that are not included in the City's sidewalk and trail plan shall be recovered by assessing twenty-five percent (25%) to the affected property owners and the remainder paid by the general ad valorem property tax paid

by the entire community or by other funds that may become available to the City for infrastructure cost recovery. Sidewalks are generally installed on the City's major streets or in accordance with the City's sidewalk and trail plan, which will connect several neighborhoods and community attractions in a logical pattern; these improvements will not be assessed to the abutting properties.

**Subd. 7 Storm Water Drainage.** Storm water drainage improvements shall be classified to include all storm sewer, storm sewer pumping stations, culverts, ditches, storm water detention ponds, street grading, and any other improvement that will facilitate the drainage.

Exclusive of all property now included in a storm sewer special assessment district, the assessment policy on storm sewers shall be as follows:

The City, at its option, may establish a storm sewer special assessment district. The boundaries of this district shall be fully described in a City Council resolution. All properties within this district shall be assessed on a square foot basis. One Hundred Percent (100%) of the cost of any of the above mentioned storm sewer improvements may be assessed against benefited properties. For purposes of this assessment policy, street and alley areas shall not be considered benefited properties.

**Subd. 8 Reconstruction of Existing Improvements.** When it becomes necessary to replace or upgrade existing water mains, sanitary sewer mains, or sidewalks due to their deteriorated or depreciated use, the Council may provide for a *pro rata* credit to benefited property which had been previously assessed for the initial improvement and the city's share of the improvement shall be paid for out of public works reserve funds and/or any other fund that the Council deems appropriate.

## **Section 5. Certification of Assessments**

After the adoption of any special assessment by the City Council, the City Administrator shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the County Auditor to be extended on the property tax lists of the county.

## **Section 6. Partial Prepayment**

After the adoption by the City Council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment or the first installment to the County Auditor, pay to the City Administrator any portion of the assessment not less than ten percent (10%) of the initial total principal amount. The remaining unpaid balance shall be spread over the period of time established by the Council for installment payment of the assessment.

## **Section 7. Improvement Bonds**

Whenever the City Council determines that it is necessary to borrow money under **Minnesota Statutes, Chapter 429**, for the financing of any local improvement the cost of which is to be paid in whole or part from special assessments, such borrowing may be affected by the issuance of improvement bonds of the city under Chapter 429, for the payment of which bonds and interest thereon the full faith and credit of the city shall be irrevocably pledged.

## **Section 8. Public Works Reserve Fund**

**Sub. 1 Establishment.** There is hereby established a Public Works Reserve Fund of the city to be held and administered by the City Administrator separate and apart from all other funds of the city for the purpose of aiding in the financing of new capital improvements and/or replacement of existing capital improvements.

**Sub. 2 Source of Funds.** The fund shall be a permanent fund of the city and the monies necessary for its maintenance shall be provided by taxation and/or from other funds of the city.

**Sub. 3 Disposition of Funds.** Monies in the fund shall be used for the purpose of financing the cost of capital improvements of a type for which the city is otherwise authorized to issue bonds or specifically referenced in this ordinance.

**Sub. 4 Investment.** Whenever there are monies in the fund not immediately needed for capital improvements, such monies shall be invested by the City Administrator under the direction of the City Council in any securities authorized for investment of municipal debt service funds by law.



**Sub. 5 Use for Other Purposes.** When the fund accumulates monies in excess of any amounts reasonably anticipated to be needed for capital improvements, the City Council may submit to the voters of the city at any regular or special election the question of using the fund for some other purpose. If a majority of the votes cast on the question are in favor of such diversion from the original purpose of the fund, it may be used for any purpose so approved by the voters.

**Section 9. Assessment Procedure**

MN Statutes, Section 429.011 to 429.111 and the League of Minnesota Cities "Local Improvement Guide" shall be used as the basis in conducting local improvements that are paid wholly or in part by special assessments. The City Council, in considering local improvements involving special assessments, reserves the right to initiate proceedings without a petition.

**Section 10. Conflicts with other Ordinances, Separability of Provisions.**

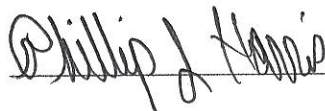
All ordinances or portions of ordinances in conflict herewith are repealed. Should any section of this ordinance be held unconstitutional or void, the remaining provisions shall nevertheless remain in full force and effect.

**Section 11. Effective Date.**

This ordinance becomes effective from and after its passage and publication. Upon being put to a vote, the above ordinance was duly passed by the City Council of the City of Nevis this 8<sup>th</sup> day of July, 2002, by the following vote:

Ayes: Steve Erickson, Al Huesman, LaVonne Lindow, and Marlin Winters.

Nays: Phil Harris.

 \_\_\_\_\_, Mayor

ATTEST:

 City Administrator

**TABLE 1 ASSESSABLE IMPROVEMENTS**

Improvement	Percentage Assessable To Property Owner	City share	Life Span
Sanitary Sewer	100% FF*	oversizing	50 years
Water	100% FF	oversizing	50 years
Streets	100% FF		10-20 years
Concrete curb & gutter	100% FF		10-20 years
Overlay	50% FF	50%	10 years
Sidewalks	25% FF	75%	10 years
Storm water drainage	100% (SF* within district)		40 years
Reconstruction	Pro rata life span	remainder	

\*FF--Front footage  
\*SF--Square footage