

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA**

**SPECIAL ASSESSMENT POLICY &
PROCEDURES FOR PUBLIC IMPROVEMENT
PROJECTS**

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SECTION I – PURPOSE, POLICY, AND LIMITS

1.1. Purpose. The purpose of this policy is to establish a fair and equitable manner of assessing the increase in market value (special benefit) associated with public improvements occurring within, and conducted by, Denmark Township (“Town”). The procedures used by the Town in levying special assessments are those specified in Minnesota Statutes, chapter 429, which provides that all or part of the cost of improvements may be assessed against benefitting properties. This policy is limited to special assessments imposed pursuant to Minnesota Statutes, chapter 429 and does not apply to amounts placed on property taxes pursuant to Minnesota Statutes, chapter 365A, Minnesota Statutes, section 366.012, or other law.

This policy shall serve as a guide for current and future Town Boards, and for all persons concerned with assessments related to public improvements within the Town. It is the intent and purpose of this policy to provide for and ensure consistent, uniform, fair, and equitable treatment, insofar as it is practical, lawful, and possible, of all property owners with regard to the assessment of costs associated with public improvements within the Town. While this policy shall serve as a guide for current and future Town Boards, there may be exceptions to the policy or unique circumstances or situations which may require special consideration and discretion by the Town Board, subject to applicable law. Nothing in the policy is intended to limit, or shall be construed as limiting, the Town Board’s authority under law to impose and collect special assessments.

1.2 “Special Benefit” and “Uniformity”. Special assessments are charges levied against real property for the costs of a public improvement that provides a “special benefit” to the assessed properties. Special benefit must be determined on a project-by-project basis, and on a parcel-by-parcel basis. The rate of a special assessment must be uniform and levied equally upon all property receiving special benefits. Assessment must be confined to property benefited, and the amount of the assessment shall not exceed the benefit.

1.3 Special Assessment Uses. Special assessments may be used to pay the costs of all or a portion of public improvement projects including the maintenance, repair, or replacement of the Town’s infrastructure. The Town specifically has the authority to specially assess costs related to any projects, pursuant to the provisions of Minnesota Statutes, sections 429.021, 429.101, 459.14, and any other relevant laws, as they may be amended from time to time. Improvement projects for which the Town is authorized to impose special assessments include, but are not limited to, the construction, reconstruction, installation, or replacement of the following:

- (a) Roads and streets;
- (b) Water main systems;
- (c) Sanitary sewer systems;
- (d) Storm sewer systems;
- (e) Street lights; and
- (f) Sidewalks, curbs, and gutters.

1.4 Procedures and Policy. The Town shall follow the procedures set forth in Minnesota Statutes, chapter 429 to specially assess for the improvement projects it undertakes. The Town shall refer to applicable state law to determine the requisite procedures for imposing special assessments. The Town Board further states that, upon adoption of this policy, the assessment policies herein shall be the policies and procedures which the Town shall apply with respect to special assessment projects. This policy does not apply to improvement projects for which the Town does not impose special assessments.

1.5 Interpretation and Application. The Town has limited experience with special assessments and it is adopting this policy in anticipation of the Town Board electing to undertake certain road improvement projects for which it will impose special assessments to help defray the costs to the general taxpayers in the Town. The Town Board may, as it gains experience with special assessment projects, specially assess for other types of public improvement projects if there is a need for such projects. In the administration of this policy, the Town Board reserves for itself the discretion to interpret and apply this policy as it determines is reasonable and appropriate under the facts of a particular situation, even if those decision do not strictly conform to the language of this policy. This flexibility is intended to allow the Town Board to reach a reasonable resolution of situations as it gains experience with the special assessment process and applying the provisions of this policy. The Town Board will endeavor to amend this policy on a going-forward basis to adjust it as may be needed to meet the needs of the Town as it undertakes additional improvement projects.

1.6 Review and Modifications. The Town Board may, without notice, review and revise this policy as it determines is appropriate.

SECTION II – GENERAL ASSESSMENT POLICIES APPLICABLE TO ALL TYPES OF IMPROVEMENTS

2.1. Costs Assessed. The cost of all public improvements shall be assessed upon property in relation to the benefit received.

2.2. Definitions and General Principles. The following general principles shall be used as a basis for the Town’s assessment for all public improvement projects:

- (a) “Assessable Cost” means the Project Cost minus the Town Cost.
- (b) “Assessable Property” means property owned by the Town and other political subdivisions including municipal building sites, parks and playgrounds, but not including public streets, alleys, and right-of-way, shall be regarded as being assessable on the same basis as if such property was privately owned. Private rights-of-way shall be assessable.
- (c) “Interest” means the amount of interest the Town shall assess on assessments levied. In the event that the Town issues bonds or other debt to construct a public improvement, the Town shall fix a rate of interest equal to the interest on the issued debt plus two percent. In the event the Town does not issue debt, the Town shall set the interest rate on assessments at two percent.

- (d) “Lot” means a lawfully established and recorded lot or parcel of real property that contains a dwelling unit or, if not, has an available density unit and is otherwise buildable under the Denmark Township Development Code. A lot will be deemed buildable if it contains sufficient area under the Denmark Township Development Code to allow the construction of a dwelling unit.
- (e) “Prepayment” means the opportunity for property owners to pay the full cost of their assessment within 30 days of the assessment hearing. Such payments shall be without interest.
- (f) “Project Assistance” means financial assistance that the Town may receive from other sources (e.g., federal or state government) which may be used to defray the costs incurred in an improvement project. To the extent that any Project Assistance is received, it shall first be applied to the Town Cost. In the event there are funds remaining, those funds shall then be applied to lower the Assessable Cost. Finally, if the Town receives funds which are in excess of the total Project Cost, it shall deposit the remaining funds in its Capital Improvement budget, subject to any terms or conditions which may apply to the funds.
- (g) “Project Cost” means the total cost of all necessary construction work required to accomplish the improvement, plus all engineering, legal, administrative, financing, and other contingent costs, including the costs of any necessary land acquisition.
- (h) “Town Cost” means the total cost of a public improvement which the Town will pay. Such amounts shall be determined and established by Town resolution.

SECTION III – INITIATION OF PUBLIC IMPROVEMENT PROJECTS

3.1 Initiation. Public improvement projects may be initiated in the following ways:

- (a) By petition of owners of at least 35% in frontage of the property abutting the proposed improvement (if 100% of the owners sign the petition the Town Board is able to utilize a streamlined approval process); or
- (b) By the Town Board when, in its judgment, such action is required.

3.2 Ordering the Project - Voting Requirement. Depending on how a public improvement project is initiated, state law provides certain voting requirements, which are as follows:

- (a) For projects which are initiated upon the filing of a petition of 35% or more of the abutting owners – a majority of the members of the Town Board must vote to approve the resolution ordering the improvements.
- (b) For projects which are initiated upon the filing of a petition of 100% of the abutting owners, the resolution approving the public improvement project and assessing the entire cost of the improvement to those properties may be adopted by a vote of a majority of the members of the Town Board without a public hearing.

- (c) For projects which are initiated by the Town Board – 4/5 of the Town Board must vote to approve the resolution ordering the improvements. If a Town Board supervisor owns property proposed to be assessed as part of a particular project, their abstention from the vote shall serve to reduce the number of votes required to obtain the required supermajority under the statute.

3.3 Improvements Associated with Development. The Town may also require land developers to install certain public improvements which are necessary to serve the proposed development as a condition of approval of land use regulations as permitted by state law. Where possible, the Town shall require such developers to install all such improvements in order to prevent the general public from paying for the costs of such improvements.

SECTION IV – METHODS OF ASSESSMENT

4.1 General Statement. State law provides different methods for assessing Project Costs. The three methods are: (1) per lot; (2) adjusted front foot; and (3) area assessments. The feasibility report prepared for the proposed public improvement project shall recommend one of these methods, or a combination thereof, based upon which method would best reflect the respective benefits which will be received for the properties within the area to be assessed.

4.2 Assessment Methods. The following methods of assessments, as described and defined below and as may be further defined in state law, are hereby established as the methods of assessment for the Town. Regardless of the method used, all properties, including those owned by governmental agencies and other tax exempt entities, are included in the calculation and are subject to assessment as provided in this policy and under state law.

- (a) Per Lot.

The “per lot” method of assessment shall be based on an equal assessment of all lots within the benefitted area. The “assessment per lot” shall be the quotient of the Assessable Cost divided by the total number of assessable lots or parcels benefitting from the public improvement.

- (b) Adjusted Front Foot.

The “adjusted front foot” method of assessment shall be based on the quotient of the Assessable Cost divided by the total frontage benefitting from the public improvement. For purposes of calculating the adjusted front footage, the Town shall apply the following:

- (1) The actual physical frontage of a benefitting property shall not be used to calculate the assessment for a particular parcel. Rather, an “adjusted front footage” shall be calculated for each parcel.
- (2) The purpose of this method of assessment is to equalize the assessment calculations for lots of similar size, despite their physical shape (e.g., rectangle lots versus pie-shaped lots).

- (3) Rectangular Lots – these lots are defined as those lots having less than a two foot difference between the front and rear lot lines. The adjusted front footage for these lots is equal to the actual front footage of the lot. For rectangular lots whose frontage is greater than its depth, the odd-shaped lot method of calculation shall be used.
- (4) Odd-shaped Lots – For odd-shaped lots, defined as those where there is more than a two foot difference between the rear and front lot lines, the adjusted front footage shall be computed by dividing the area of the lot by 12,000 square feet to determine the equivalent number of front footage units in the parcel. The number of units, multiplied by 65 feet, will give the adjusted front footage.
- (5) Corner Lot Adjustments – For street and trail assessments, the short side will be assessed the actual front footage. The long side will be assessed one-half the actual side footage or 75 feet, whichever is greater. Sanitary sewer and watermain projects will only be assessed on the short side of a corner lot.

(c) Area.

The area method of assessment shall be based on the number of square feet or acres within the boundaries of the appropriate property lines of the areas benefitting from the project. The assessment rates (i.e., cost per square foot) shall be calculated by dividing the total assessable cost by the total assessable area. On large lots, the Town 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.

The following items shall not be included in area calculations: public right-of-way; natural waterways; swamps; lakes; and other wetlands designated by the Minnesota Department of Natural Resources or the Town. The Town Engineer will make a recommendation on the boundaries or parameters of the benefitted area in the feasibility report.

SECTION V – SPECIFIC POLICIES RELATING TO SPECIAL ASSESSMENTS

5.1 Assessments. The total amount of assessment for a public improvement project shall not exceed the project cost and shall be apportioned equally among properties having the same general land use based on benefit. The project cost of an improvement includes the costs of all necessary construction work required to accomplish the improvement, including:

- (a) Engineering fees;
- (b) Legal fees;
- (c) Administrative fees;
- (d) Financing;

- (e) Other contingent costs; and
- (f) Acquisition of right-of-way and other property.

5.2 Assessment Cap. Regardless the method of assessment adopted by the Town, the maximum assessment per lot shall not exceed \$7,500. The Town Board reserves the right to vary from the assessment cap where, in the sole discretion of the Town, it is appropriate under the facts of the particular situation.

5.3 Standards for Improvement Projects. The following standards are hereby established by the Town to provide a uniform guide for improvements within the Town.

(a) Surface Improvements.

Surface improvements shall normally include all improvements visible on or above the ground within the right-of-way, and includes, but is not limited to, trees, lighting, sidewalks, signage, streets, drainage ponds, stormwater facilities, parking lots, parks, and playgrounds.

Prior to construction or completion of surface improvements, all utilities and utility service lines (including sanitary sewers, storm sewers, water lines, gas and electric services) shall be installed to all planned service locations such as residences or buildings.

When practicable, no surface improvements to less than both sides of a full segment of road shall be approved, except as necessary to complete partially completed improvements initiated previously. Concrete curbing or curb and gutter shall be installed at the same time as street surfacing, where included as part of the improvements.

(b) Subsurface Improvements.

The Town Board does not anticipate constructing any subsurface improvements in the foreseeable future as it does not provide water distribution, sanitary sewer, or storm sewer lines. The Town Board shall amend this policy as may be needed if it does elect to engage in such public improvements in the future.

5.4 Assessment Period. The standard term of assessment for public improvements shall be based upon the type of improvement made, as listed on the following page. The term of any assessment will generally not exceed the term of a bond's duration when a bond is issued to finance the project's costs. Any assessment that is less than \$100.00 shall be prepaid or shall be certified as the entire amount payable in one installment in the upcoming year. The Town Board may, however, establish a shorter or longer term if it is determined to be in the best interest of the Town.

Type of Improvement	Allocation of Cost (Town/Property Owner)	Assessment Period
Road Surfacing (including curbs and gutters)	Patching/Crack Sealing/Sealcoating – 0% assessable – considered maintenance	10 years
	Overlay/Rehabilitation – 75% assessable	
	Reconstruction – 75% assessable	
	New Construction – 100% assessable	

5.5 Interest Rate. 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, carrying cost and capitalized interest and shall be equal to the “project costs” of the current project, minus Town cost and other financial assistance. The interest to be used for special assessments shall be determined by the interest rate of the Town’s most recently issued bond if that bond was issued within the previous two years. If the previous issue was more than two years prior to the assessment date, the rate shall be determined by the rate that the Town would receive at the time of assessment as estimated by the Town’s bond counsel. Additionally, there shall be an additional two percent (200 basis points) added to the rate to account for the costs listed above, assessment prepayment and default. The rate shall not exceed the legal maximum as stated in Minnesota Statutes, section 429.061.

5.6 Senior Citizen Deferrals. Special assessments for senior citizen homeowners may be deferred pursuant to Minnesota Statutes, sections 435.193 to 435.195.

5.7 Partial and Full Prepayments of Assessments. After the Town Board has adopted the assessment roll in a local improvement hearing, the owner of any property specially assessed may, prior to certification of the assessment to the County Auditor, pay to the Town all or a portion of the assessment, but not less than \$100.00. The remaining unpaid balance (if any) shall be spread over the period of time established by the Town Board for installment payment of the assessment.

At any time after certification to the County Auditor, the owner of any property against which special assessment have been levied may pay the full amount of the remaining assessment. Interest accrued prior to December 31st in the year in which such a prepayment is made shall also be paid with the prepayment. If full payment is made prior to certification to the County Auditor, interest through December 31st shall be waived.

5.8 Private Developer Projects. The Town will not participate in the costs of improvements necessitated by private developer projects through the special assessment policy.

5.9 Projects Completed with Costs Under Estimate. Improvement costs shall be assessed according their actual costs. Estimates shall not provide the basis for the assessment amount.

5.10 Tax Forfeited Properties. Properties, which have been forfeited for non-payment of taxes, are subject to possible reassessment pursuant to Minnesota Statutes, section 429.071. The amount of special assessments subject to reassessment is determined by Town Board resolution

following sale by the County for the tax-forfeited land. Following the sale of a tax forfeited property, the Town may conduct an assessment hearing and re-assess the amount remaining unpaid on the original assessment. The assessment terms and conditions will be determined by the Town Board. In reassessing such property, the Town will follow the same procedure as for an original assessment under Minnesota Statutes, section 429.061 including advance notice and public hearing.

5.11 Tax Exempt Properties. Government units including private cemeteries, churches, hospitals, schools, and similar institutions must pay special assessments. Railroads are also subject to special assessments. Government units subject to special assessments include state agencies, cities, school districts, and counties. However, federal government entities are exempt from special assessments.

5.12 Reapportionment. Special assessments that have been levied against a tract of land that is subsequently subdivided may be reapportioned pursuant to Minnesota Statutes, section 429.071 and any applicable Town ordinances.

5.13 Deferred Assessments. Parcels certified as “Green Acres” by the County Assessor under Minnesota Statutes, section 273.111 may defer the assessment until such time as the property no longer meets the Green Acres requirements and no longer carries the designation. Any other deferral of assessments shall be allowed on a case-by-case basis to be approved by the Town Board.

5.14 Right to Appeal. Pursuant to Minnesota Statutes, section 429.081, any person aggrieved, who is not precluded by failure to object prior to or at the assessment hearing, or whose failure to object is due to a reasonable cause, may appeal to the district court by serving a written notice upon the chairperson or clerk of the Town within 30 days after the adoption of the assessment.

Adopted this 6th day of April 2020.

BY THE TOWN BOARD

Kathleen A. Higgins, Chairperson

Attest: _____
Becky Herman, Clerk-Treasurer