

CITY OF DELANO

SPECIAL ASSESSMENT AND TRUNK AREA POLICIES AND PROCEDURES FOR PUBLIC IMPROVEMENTS AND MAINTENANCE COSTS

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SECTION 1. GENERAL POLICY STATEMENT.

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. The procedures used by the City of Delano (City) for levying special assessments are those specified by Minnesota Statutes, Chapter 429 which provides that all or a part of the cost of improvements may be assessed against benefiting properties.

Three basic criteria must be satisfied before a particular parcel can be assessed. The criteria are as follows:

1. The land must have received special benefit from the improvement.
2. The amount of the assessment must not exceed the special benefit.
3. The assessment must be uniform in relation to the same class of property within the assessment area.

It is important to recognize that the actual cost of extending an improvement to a particular parcel is not the controlling factor in determining the amount to be assessed. However, in most cases the method for assigning the value of the benefit received by the improvement, and therefore the amount to be assessed, shall be based on the cost of the improvement. This shall be true provided the cost does not demonstrably exceed the increase in the market value of the property being assessed. The entire project shall be considered as a whole for the purpose of calculating and computing an assessment rate. In the event city staff has doubt as to whether cost of the project exceeds the special benefits to the property, the City Council may obtain such appraisals as may be necessary to support the proposed assessment.

The assessment policy is intended to serve as a guide for a systematic assessment process in the City. There may be exceptions to the policy or unique circumstances or situations which may require special consideration and discretion by city staff and the City Council.

Much of this policy reflects current City practices. Significant implications of this policy will be on reconstruction project in which affected property owners will participate in project costs through assessments (see Section 10).

SECTION 2. IMPROVEMENTS AND MAINTENANCE COSTS ELIGIBLE FOR SPECIAL ASSESSMENT.

Subd. 1. The following public improvements and related acquisition, construction, extension, and maintenance of such improvements, authorized by Minnesota Statutes, Sections 429.021 and 459.14, subd. 7, are eligible for special assessment within the City:

1. Streets, sidewalks, pavement, curbs and gutters, including the beautification thereof.
2. Parking lots, lots, lanes, garages, ramps and other structures and accessories designed for parking purposes.
3. Water works systems and appurtenances, within and without the corporate limits.
4. Sanitary sewer and storm sewer systems including appurtenances, within and without the corporate limits.
5. Street boulevard trees.
6. Street lights, street lighting systems and special lighting systems.
7. Steam heating mains.
8. Parks, playgrounds, open space areas, and recreational facilities, including the purchase of equipment, within or without the corporate limits.
9. Abatement of nuisances; including but not limited to, draining and filling swamps, marshes, and ponds on public and private property.
10. Dikes and other flood control works.
11. Retaining walls and area walls.
12. A pedestrian skyway system upon a petition pursuant to section 429.031, subdivision
13. Underground pedestrian concourses.
14. Public malls, plazas or courtyards.
15. District heating systems.
16. Fire protection systems in existing buildings upon a petition pursuant to section 429.031, subdivision 3.
17. Highway sound barriers.
18. Gas and electric distribution facilities.
19. Signs, posts, and other markers for addressing related to the operation of enhanced 911 telephone service.
20. Facilities for internet access and other communication purposes under certain circumstances.
21. Some of the costs to bury or alter new or existing distribution systems within public rights-of-way for electric utilities, telecommunications carriers, or cable systems, under certain circumstances.

Subd. 2. The City is also authorized by ordinance adopted pursuant to Minnesota Statutes Section 429.101 to recover, through special assessment, the following maintenance costs:

1. Snow, ice, or rubbish removal from sidewalks.
2. Weed elimination from streets or private property.
3. Removal or elimination of public health or safety hazards from private property excluding any structure included under the provisions of Minnesota Statutes, sections 463.15 to 463.26.

4. Installation or repair of water service lines, street sprinkling, sweeping, or other dust treatment of streets.
5. The trimming and care of trees and the removal of unsound trees from any street.
6. The treatment and removal of insect infested or diseased trees on private property.
7. The repair of sidewalks and alleys.
8. The operation of a street lighting system.
9. The operation and maintenance of a fire protection or a pedestrian skyway system.

SECTION 3. INITIATION OF PUBLIC IMPROVEMENT PROJECTS.

Public improvement projects can be initiated in the following ways.

1. Public improvement projects may be initiated by petition of owners of at least 35% in frontage of the property abutting the proposed improvement. Other specific legal requirements may apply to owners' petitions for specific types of improvements.
2. Public improvements also may be initiated by the City Council when, in its judgment, such action is required.
3. A resolution ordering any improvements initiated by the Council or by owners of less than 35% of abutting property owners requires a four-fifths majority vote of all members of the Council. A resolution ordering any improvements initiated by owners of not less than 35% of abutting property owners requires a majority vote of all members of the Council. A resolution ordering any improvements initiated by all owners of abutting property, and assessing the entire cost against their property, may be adopted without a public hearing. The Council may consider the request of a Developer to construct the improvements and assess them.

SECTION 4. PUBLIC IMPROVEMENT PROCEDURE.

~~The following is the general procedure followed by the City Council for all public improvement projects from initiation of such a project through certification of the assessment roll to the County Auditor. Formats for the various reports and resolutions referenced in this section are made a part of the policies and procedures of the City.~~

- ~~1. Staff reviews petition or Developer's request for submission to Council.~~
- ~~2. Council accepts or rejects petition or request. If based upon a petition, the Council adopts a resolution declaring whether the required percentage of property owners has signed. If the petition or request is accepted, Council orders preparation of feasibility report.~~
- ~~3. Staff prepares feasibility report. The report shall evaluate whether the proposed improvement is necessary, cost effective, and feasible and whether it should be made as proposed or in conjunction with another project. The report shall include an estimate of the cost of the improvement as proposed. Council may refer the report to the Planning and Zoning Commission.~~
- ~~4. Council accepts or rejects feasibility report. If accepted, Council orders public hearing on the improvements.~~
- ~~5. Staff posts and publishes hearing notice and mails notices to affected property owners as provided in Minn. Stat. § 429.031, Subd. 1(a).~~
- ~~6. Council conducts public hearing.~~
- ~~7. Within six (6) months of the hearing date, Council adopts or rejects resolution ordering improvement to be constructed and advertisement of bids. If adopted, staff prepares final plans, advertises for and opens bids as provided in Minn. Stat. § 429.041, prepares bid tabulation, makes recommendation to City Council for award, and prepares proposed assessment roll. Bonds to finance project costs may be issued at any time after the improvements are ordered.~~
- ~~8. Council awards contract based on the bids received.~~
- ~~9. Council reviews proposed assessment roll and orders assessment hearing.~~
- ~~10. Staff publishes hearing notice, mails notice of hearing date and proposed assessments to the affected property owners as provided in Minn. Stat. § 429.061.~~
- ~~11. Council conducts assessment hearing and adopts, revises, or rejects resolution determining the amount of the total expense the City will pay, if any, and establishing the assessment roll. If adopted, Council authorizes certification of the assessment to the County Auditor.~~
- ~~12. Staff certifies the assessment roll to the County Auditor.~~
- ~~13.1. Staff supervises construction and prepares payments. Minnesota State Law provides for a certain procedure to be used by cities for public improvements including public hearings and other public notices to affected property owners. The City will follow these laws in the Special Assessment process.~~

SECTION 5. FINANCING OF PUBLIC IMPROVEMENTS.

The City encourages public improvement projects as the area (s) benefiting and needing such improvements develop. Examples of this policy can be seen through the subdivision regulations, zoning ordinance, and building codes. Developers are required to provide the needed improvements and services before development occurs, thereby avoiding unexpected hardships on the property owners purchasing such property and the general public. However, it is recognized that certain areas of the City have developed without all needed public improvements (e.g. parks, water, sewer, and street improvements) and that methods must be found to provide these improvements without causing undue hardships on the general public or the individual property owner.

Special assessments are generally accepted as a means by which areas can obtain improvements or services; however, the method of financing these is a critical factor to both the City and the property owner. Full project costs spread over a very short term can cause an undue hardship on the property owner and, likewise, city costs and systems costs spread over a long period of time can produce an undue hardship on the general public of the City.

It is the policy of the City to defer assessments only where payment of the assessment on a homestead would be a hardship, and the owner of the homestead is one of the following: (a) a senior citizen, 65 years of age or older, or (b) a person retired because of a permanent and total disability, or (c) a member of the Minnesota National Guard or other military reserve who is ordered into active military service. Also, the City Council may elect to defer assessments on undeveloped land for a specified length of time or until the lands are developed. Terms and conditions of any such deferral will only apply to property that is legally defined as a "homestead" and further be established in the resolution adopting the assessments.

SECTION 6. GENERAL ASSESSMENT POLICIES APPLICABLE TO ALL TYPES OF IMPROVEMENTS.

The cost of any improvement shall be assessed upon property based upon benefits received. The following general principles shall be used as a basis of the City's assessment policy:

1. **Project Cost.** The "project cost" of an improvement includes the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing and other contingent costs, including acquisition of right-of-way and other property. 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, and capitalized interest. The interest charged to the project shall be included as financing charges.
2. **City Cost.** The "city cost" of an improvement is the amount of the total improvement expense the City will pay as determined by Council resolution. Where the project cost of is not entirely attributed 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, or for any other reason determined by the City, the City, through the use of other funds, may pay such "city cost."
3. **Assessable Cost.** The "assessable cost" of an improvement is equal to the "project cost" minus the "city cost."
4. **Interest.** The City will charge interest on special assessments at a rate specified in the resolution approving the assessment roll. If bonds were sold to finance the improvement project, the interest rate shall be two percent (2%) more than the average interest rate of the bonds, rounded to the nearest quarter of a percent. If no bonds were sold, the interest rate shall be set at a rate designated by the City Council.
5. **Prepayment.** Property owners may pay their assessments in full, interest free, for a period of 30 days after the Council adopts the assessment roll. After such period interest shall be computed from the date specified in the assessment resolution. The City will transmit a certified duplicate of the assessment roll with each installment, including interest, to the County Auditor, or in lieu of such certification, annually certify to the County Auditor by November 30 in each year, the total amount of installments of and interest on assessments on each parcel which are to become due in the following year. Prior to certification of principal and interest or the first installment thereof, to the County Auditor, a property owner may make a partial prepayment of the principal to the City. Such partial prepayment must be at least \$100.00. If the partial prepayment is made after the 30-day "interest free" period allowed by state law, interest will be charged on the amount of the partial prepayment from the date specified in the resolution and paid along with the partial prepayment. After the City has made the first certification of principal and interest to the County Auditor, prepayment will be accepted only for the total amount still owing including interest and must be made prior to November 15 of any year. If a parcel has two or more separate special assessments, prepayment of the remaining principal balance may be made on one or more assessment

totals. Tax-exempt parcels such as churches and school properties may make only one partial prepayment to the first certification to the County Auditor. The remaining principal after the partial prepayment will be paid in equal installments over the remaining term of the special assessments.

6. **Extensions.** Where an improvement is designed for service of an area beyond that receiving the initial benefit, the City may pay for increased project costs due to such provisions for future service extensions. The City will levy assessments to cover this cost when a new improvement is installed as an extension of the existing improvement upon identification of such additional amount in the notice of hearing for the extensions or new improvements. As an alternative, the City may assess these costs to the area of future benefit immediately.
7. **Frontage Roads.** Because frontage roads along highways or other arterial streets are deemed to be of benefit to commercial or industrial properties, the entire costs of any improvement on such frontage roads shall be assessable to the benefited properties, even if only those properties on one side of such frontage roads are benefited.
8. **Project Assistance.** If the City receives financial assistance from the Federal Government, the State of Minnesota, the County, or from any other source to defray a portion of the costs of a given improvement, such aid will be used first to reduce the “city cost” of the improvement. If the financial assistance received is greater than the “city cost,” the remainder of the aid will be placed in the Capital Improvement Fund to be applied towards other City projects.
9. **Assessable Property.** Property owned by the City 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 right-of-way shall be assessable.
10. **Individual Benefits.** The City may construct improvements specifically designed for or shown to be of benefit solely to one or more properties. The costs for these improvements will be assessed directly to such properties, and not included in the assessments for the remainder of the project. An example of this would be utility service lines running from the main lines to the property.
11. **Benefit Appraisals.** In the event that city staff has doubt as to whether or not the proposed assessments exceed the special benefits to the property in question, the City Council may order benefit appraisals as deemed necessary to support the proposed assessments. As a general rule, benefit appraisals may be ordered when the proposed assessment exceeds the average amount of a residential assessment for a standard city reconstruction on a residential lot or 150% per foot of the previous project year’s assessment for commercial or industrial property.
12. **Condemnation Awards.** A property owner may, under circumstances approved by the City council, elect to offset special assessments against condemnation awards. In such case, the property owner must execute an agreement (Net Assessment Agreement) with the City Council.
- ~~12-13.~~ **Township Properties.** In the event public improvements create a special benefit for properties not included in the City of Delano corporate limits, the City Council shall consider, on a case by case basis, methods for applying assessments on such properties. If allowable by State Statues, the Council may consider annexation of such properties in order to consistently and equitably share the cost associated with the special benefit of all properties.

SECTION 7. METHODS OF ASSESSMENT.

Subd. 1. General Statement. The City of Delano will use the “adjusted front footage” or “per lot” methods of assessment in most instances. As a general rule, strictly residential projects will be assessed using the “per lot” method. In instances of mixed use the “adjusted front footage” method will be applied. In cases where these methods are deemed inequitable by staff, a recommendation will be made to the City Council of a different methodology.

Definitions: Residential, Commercial, and Industrial minimum street widths are defined in the Delano Subdivision Ordinance Section 7.5, Subd. M. Assessments levied are typically measured against the minimum requirement as outlined in the Subdivision Ordinance, regardless of actual physical conditions. .

Subd. 2. Policy Statement. The “adjusted front footage” and “per lot” methods of assessment are described and defined as follows:

A. “Adjusted Front Footage” Method of Assessment.

The “adjusted front footage” method of assessment is intended to be used when commercial and/or industrial property as defined by the City’s Zoning Ordinance is affected by the project.

The cost per “adjusted front foot” method of assessment shall be based on the quotient of the “assessable cost” divided by the total assessable frontage benefiting from the improvement. For the purpose of determining the “assessable frontage,” all properties, including governmental agencies, shall have their frontages included in such calculation.

This method shall be used when a project effects mixed zoning. Special consideration will be given to residential properties (as legally zoned) when they are included in a project which also impacts business, commercial, or industrial properties. As such, the adjusted front footage will be measured and the residential portion of the project will be divided out from the total project cost. This proportion of residential properties will be equally divided among each residential unit, as prescribed in the “per parcel” method. Multi-tenant housing will be responsible for as many units as are present on a specific property. Business, commercial, and industrial properties will divide the remaining portion of the project based on the following “adjusted front footage” method of assessment.

The actual physical dimensions of a parcel abutting an improvement (i.e., street, sewer, water, etc.) shall not be construed as the frontage utilized to calculate the assessment for a particular parcel. Rather, and “adjusted front footage” will be determined. 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 procedure will be determined by the specified 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.

1. *Rectangular Interior Lots.* The rectangular lot is defined as having no more than 2.0 feet difference between the front and rear lot lines. The adjusted front footage is the actual front footage of the lot. For rectangular lots whose frontage is greater than its depth, the “odd shaped lot” method shall be used.
2. *Odd Shaped Lots.* For odd shaped lots such as exist on cul-de-sacs and curved streets where there is more than 2.0 feet of difference between the front and rear lot lines, and where the lots frontage is greater than its depth, the “odd shaped lot” method of determining the adjusted front footage shall be used. 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.
3. *Corner Lot Adjustment.* 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 seventy-five (75) feet, whichever is greater. Sanitary sewer and watermain will only be assessed on the short side of a corner lot.

B. “Per Lot” Method of Assessment.

The “per lot” method of assessment is intended for use in residential properties.

The “per lot” method of assessment shall be based on equal assessment of all properties within the benefited area. The “assessment per lot” shall be the quotient of the “assessable cost” divided by the total assessable lots or parcels benefiting from the improvement. For the purpose of determining the “lots” or “parcels” all parcels, including governmental agencies, shall be included in such calculations. Oversized lots that can be legally subdivided and meet buildable lot requirements according to the City’s Zoning Ordinance will be assessed the maximum total capacity, even if the property is not entirely built out or occupied. Multi-tenant housing will be responsible for one unit for each living unit on the premise.

Corner lots are ordinarily assessed the full amount as measured by the street which the property is addressed. Corner lots are further assessed half of a full assessment based on the street which does not address the property.

SECTION 8. STANDARDS FOR PUBLIC IMPROVEMENT PROJECTS.

The following standards are hereby established by the City to provide a uniform guide for improvements within the City.

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, signing; street and accessory improvements such as drainage ponds and facilities, parking lots, parks and playgrounds.

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

When practicable, no surface improvements to less than both sides of a full block of street 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.

B. Sub-Surface Improvements

Subsurface improvements shall normally include such items as water distribution, sanitary sewer and storm sewer lines and electric and gas utilities.

Main lines are the publicly owned and maintained lines or facilities such as trunk lines, interceptors, mains, and laterals. Service lines are those privately owned lines or facilities extending from the main line to the property line.

Policy Statement. Subsurface Improvements shall be made available to serve current and projected land use. All installations shall conform to applicable standards established by local, state and/or federal agencies of competent jurisdiction.

Service lines from the lateral or trunk to the property line of all planned service locations such as residences or buildings shall be installed in conjunction with the construction of the mains.

SECTION 9. POLICIES OF REASSESSMENT.

The City shall design public improvements to last for a definite period. The life expectancy or service life shall be as stated in the policy statement of this section, or if different, shall be as stated in the resolution ordering improvement and preparation of plans.

A. Policy Statement

The following are the “life expectancies” or “service lives” of public improvements except as may be otherwise stated in the resolution ordering improvement and preparation of plans.

1. Sidewalks - 20 years.
2. Street improvements, including surfacing and curb and gutter - 20 years.
3. Ornamental street lighting - 20 years.
4. Water Mains - 20 years.
5. Sanitary Sewers - 20 years.
6. Storm Sewers - 20 years.

SECTION 10. ASSESSMENT COMPUTATIONS.

The following is the typical city assessment for various specified improvements.

A. Street and Curb and Gutter Improvements

1. **New Constructions.** New streets are ordinarily assessed 100% to the abutting benefited properties. Street and curb and gutter improvements will normally be assessed by the adjusted front foot method, however other methods may be utilized if conditions warrant.
2. **Overlays.** Overlays are typically not assessed to benefited properties.
3. **Reconstructions.** Street reconstructions and other surface improvements associated are generally assessed at the rate prescribed below:
 - Residential/Tax-Exempt – 50% of assessable value
 - Commercial -- 70% of assessable value
 - Industrial -- 70% of assessable value
4. **Gravel Streets.** Upgrading of existing gravel street by adding pavement, curb and gutter is considered new construction and all costs are ordinarily assessed 100%.
5. **Seal Coats.** Sealcoats are typically not assessed.
6. **Alleys.** Upgrading existing gravel alleys by adding pavement is usually assessed 100% to all lots abutting on the alley in the block being improved. Reconstructing existing paved alleys are 100% assessed also.

B. Sidewalks and Trails

1. **New Construction.** New sidewalks are ordinarily assessed 100% to the abutting property on which the sidewalk is located.
2. **Reconstruction.** Replacement sidewalks are ordinarily assessed 50% to the abutting property owner and 50% City funded.
3. **Trails.** Bituminous walkways and/or bicycle trails are typically not assessed, but rather funded by the City in existing subdivisions.

C. Storm Sewer Improvements

Storm sewers are generally assessed on a project-by-project basis. Storm sewers in new subdivisions are considered an assessable improvement on an area basis.

D. Sanitary Sewer Assessments

Sanitary sewers are generally assessed on a project-by-project basis.

E. Watermain Assessments

Watermains are typically assessed on a project-by-project basis.

F. Street Boulevard Trees

All street boulevard trees installed as part of new street constructions or in reconstructing existing streets may be included as part of the overall project costs included in the assessment calculations.

G. Street Lights

All costs for new streetlights installed as part of constructing new streets or streetlights relocated as part of reconstructing streets may be included in the overall project costs and included in the assessment calculations. In new subdivisions, the City may require the developer to finance street light improvement rather than assessing the cost.

H. Other Improvements

Based on the City Council determination, any other improvements may be fully assessed or assessed in part.

SECTION 11. DEFERMENT OF SPECIAL ASSESSMENTS.

Subd. 1. It is the policy of the City to defer assessments only where payment of the assessment on a homestead would be a hardship, and the owner of the homestead is one of the following: (a) a senior citizen, 65 years of age or older, or (b) a person retired because of a permanent and total disability, or (c) a member of the Minnesota National Guard or other military reserve who is ordered into active military service. Also, the City Council may elect to defer assessments on undeveloped land for a specified length of time or until the lands are developed. Terms and conditions of any such deferral will only apply to property that is legally defined as a "homestead" and further be established in the resolution adopting the assessments. The City Clerk is hereby authorized to record the deferment of special assessments where the following conditions are met:

1. The applicant must apply for the deferment not later than 90 days after the assessment is adopted by the City Council.
2. The applicant must be: (a) a senior citizen, 65 years of age or older, or (b) a person retired because of a permanent an total disability, or (c) a member of the Minnesota National Guard or other military reserve who is ordered into active military service.
3. The applicant must be the owner of the property.
4. The applicant must occupy the property as his/her principal place of residence.
5. The average annual payment for assessments levied against the subject property exceed one percent of the adjusted gross income of the applicant as evidenced by the applicant's most recent federal income tax return. The average annual payment of an assessment shall be the total cost of the assessment divided by the number of years over which it is spread.

Subd. 2. The deferment shall be granted for as long a period of time as the hardship exists and the conditions aforementioned have been met. However, it shall be the duty of the applicant to notify the City Clerk of any change in his status that would affect eligibility for deferment.

Subd. 3. The entire amount of deferred special assessments shall be due within sixty days after loss of eligibility by the applicant. If the special assessment is not paid within the sixty (60) days, the City Clerk shall add thereto interest at a per annum interest rate of two percent (2%) above the bond interest rate, or such other amount as specified by the Council and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant demonstrate to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date, including principal and interest, with the balance thereafter paid according to the terms and conditions of the original special assessments.

Subd. 4. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

1. The death of the owner when there is no spouse who is eligible for deferment.
2. The sale, transfer or subdivision of all or any part of the property.
3. Loss of homestead status on the property.
4. Determination by the Council for any reason that immediate or partial payment would impose no hardship.

State Law References(s): Minn. Stat. § 435.193, Senior Citizens or retired & disabled persons hardship special assessment deferral.

Subd. 5. This deferral section shall only apply to assessments originating from capital improvements outlined in Section 2, Subdivision 1 of this plan.