

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY COUNCIL AND MAYOR

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GENERAL PROVISIONS

§ 30.01 COMPENSATION.

(A) The compensation of the Mayor and the Council members shall be set annually, payable each December.

(B) There will be no other compensation for extra meetings attended; except, travel expenses, plus mileage, will be paid for any out-of-town meetings attended.

(Prior Code, § 201.09) (Ord. passed 10-6-1986; Ord. passed 8-26-1991; Ord. passed 8-11-1994; Ord. 04-02, passed 10-18-2004; Ord. passed 10-18-2010)

COUNCIL RULES OF PROCEDURE**§ 30.15 AUTHORITY.**

The city is established by, and shall operate under, M.S. Ch. 412, as it may be amended from time to time. M.S. § 412.191, subd. 2, as it may be amended from time to time, authorizes the City Council to preserve order at its meetings and gives the City Council the power to regulate its own procedure. The following set of rules shall be in effect upon their adoption, by resolution, and until the time as they are amended or new rules are adopted to replace the same.

(Ord. passed 1-21-2014)

§ 30.16 GENERAL RULES.

(A) *Meetings to be public.* All official meetings of a quorum of the Council shall be open to the public with the exception of those sessions allowed by law to be closed.

(B) *Quorum.* A majority of the members of the Council shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time.

(C) *Right to floor.* Any member desiring to speak shall first be recognized by the presiding officer, and shall confine his or her remarks to one subject under consideration or to be considered.

(D) *Mayor.* The Mayor shall be a member of the Council and preside over its meetings, and shall have the same rights, duties and responsibilities as do other Council members.

(E) *City Clerk-Administrator-Treasurer.* The city's Clerk-Administrator-Treasurer shall attend all meetings of the Council, shall prepare minutes of the Council and shall prepare the meeting agendas. In addition, the city's Clerk-Administrator-Treasurer may make recommendations to the Council and participate in all discussions of the Council, but shall have no vote on matters before the Council.

(F) *City Attorney.* The City Attorney shall attend meetings when requested by Council or the city's Clerk-Administrator-Treasurer to give an opinion, either written or oral, on questions of law. The City Attorney shall respond to all questions of the Council regarding parliamentary procedure and provide general guidance for the Council.

(G) *Employee.* City department heads and staff shall attend meetings of the City Council upon request of the City Council or the city's Clerk-Administrator-Treasurer. This shall not limit the appearance of any city employee before the Council when the appearance is made as a resident or a member of the public.

(Ord. passed 1-21-2014)

§ 30.17 COUNCIL MEETINGS.

(A) *Organizational meeting.*

(1) The Council shall hold its first meeting of the year on the third Tuesday in January, unless another day during the month is designated.

(2) The order of the day shall include:

(a) Affirm Council meeting dates of the year;

(b) Designate official newspaper of the city;

(c) Designate official depositories of the city;

(d) Appointment of officers and employees and members to committees, as may be necessary;

(e) Other business as the city's Clerk-Administrator-Treasurer shall place on the agenda.

(B) *Regular meetings.* The regular Council meetings are to commence at 7:00 p.m. on the third Monday of each month. Unless the day fixed for any regular meetings falls upon a day observed by the Council as a legal holiday, the meeting shall be held at the same hour and location on the next succeeding business day, unless another day is designated in advance. The Council shall meet in the Council Chambers unless another location is designated in advance by the Council.

(C) *Special meetings.* Special meetings may be called by the Mayor or two Council members or in accordance with state law.

(D) *Emergency meetings.* Emergency meetings may be called by the Mayor or in accordance with state law.

(E) *Open meeting exceptions.* The Council, collectively and through its individual members, shall conduct its business consistent with the state's Open Meeting Law, being M.S. Ch. 13D, as it may be amended from time to time and exceptions thereto.

(F) *Adjournment.* A motion to adjourn shall always be in order and decided without debate.

(G) *Attendance of media.* All official meetings of the City Council and its committees shall be open to the media, subject to preservation of order and decorum to be determined by the presiding officer and subject to Open Meeting Law exceptions.

(Ord. passed 1-21-2014)

§ 30.18 PRESIDING OFFICER AND DUTIES.

(A) *Presiding officer.* The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the city's Clerk-Administrator-Treasurer shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their members to act temporarily as presiding officer. Upon arrival of the Mayor or Acting Mayor, the presiding officer shall immediately relinquish the Chair upon the conclusion of the business immediately before the Council. The presiding officer may make motions, second motions or speak on any question.

(B) *Call to order.* The meetings of the Council shall be called to order by the presiding officer.

(C) *Preservation of order.* The presiding officer shall preserve order and decorum at all meetings of the Council, prevent attacks on personalities or the impugning of members' motives and confine members in debate to the agenda items and specific questions under discussion.

(D) *Points of order.* The presiding officer shall determine all points of order.

(E) *Questions to be stated.* The presiding officer shall state all questions submitted for a vote and announce the results.

(Ord. passed 1-21-2014)

§ 30.19 AGENDAS AND ORDER OF BUSINESS.

(A) *Agendas.*

(1) The city's Clerk-Administrator-Treasurer shall prepare an agenda of business for each regular Council meeting and file a copy in the office of the City Clerk-Administrator-Treasurer not later than the Thursday before the meeting. The agenda shall be prepared in accordance with the order of business and copies thereof shall be delivered to each Council member and to requesting parties as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved for addition to the agenda by a unanimous vote of the Council member present.

(2) All reports, communications, ordinances, resolutions, contract documents or other matters submitted to the Council shall be filed not later than 12:00 p.m. on the Wednesday prior to the Monday Council meeting at which consideration is desired, and shall be delivered to the city's Clerk-Administrator-Treasurer for inclusion in the proper order of business on the agenda.

(B) *Order of business.* The general rules as to the order of business in regular meetings shall be as follows:

(1) Call to order;

- (2) Pledge of Allegiance;
- (3) Additions or corrections to the agenda;
- (4) Consent agenda:
 - (a) Approve minutes;
 - (b) Approve documents or items that need no discussion and follow bylaws and policies;
 - (c) Yearly designations.
- (5) Public hearing;
- (6) New business;
- (7) Old business;
- (8) Presentation of claims;
- (9) Reports:
 - (a) Council committees;
 - (b) Special committees; and
 - (c) Department heads.
- (10) Notices and communications;
- (11) Announcements;
- (12) Individuals or groups not on the agenda; and
- (13) Adjournment.

(C) *Varying of order.* The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of the hearing.

(D) *Reading of minutes.* Unless a reading of the minutes of a Council meeting is requested by a member of the Council, the minutes may be approved without reading if the city's Clerk-Administrator-Treasurer has previously furnished each member of the Council with a copy thereof.
(Ord. passed 1-21-2014)

§ 30.20 COMMITTEES, BOARDS AND COMMISSIONS.

(A) *Creation of committees, boards and commissions.* The Council may create committees, boards and commissions to study, advise and make recommendations on the topics as the Council may specify.

(B) *Membership and selection.* Membership and selection of members shall be as provided by the Mayor and in accordance with state statutes. Any committee, board or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council. Notwithstanding applicable provisions of state statutes, no committee, board or commission shall have powers other than advisory to the Council.

(C) *Removal of members.* The Council may remove any member of any committee, board or commission which it has created or as created by state statutes by a majority vote. Removal will be in accordance with established policies.

(D) *Referral and reports.* Any matter brought before the Council for consideration may be referred by the presiding officer to a special committee which the presiding officer appoints, for a written report and recommendation before it is considered by the Council as a whole. A majority of the members of the committee shall sign the report and file it with the city's Clerk-Administrator-Treasurer prior to the Council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it.

(Ord. passed 1-21-2014)

§ 30.21 CITIZENS' RIGHTS; AUDIENCE PARTICIPATION.

(A) *Addressing the Council.* Any person desiring to address the Council by oral communication shall first secure permission by the presiding officer. Preference will be given to those persons who have notified the city's Clerk-Administrator-Treasurer by 12:00 p.m. on the Wednesday prior to the scheduled Council meeting of their desires to speak, in order that their names may be placed on the agenda and they will be recognized by the presiding officer without further action. Persons wishing to address the Council on a subject which appears on the agenda must wait until the item is discussed by the Council. Each person addressing the Council shall first wait to be acknowledged by the Mayor to speak, shall then stand and state his or her name and address before speaking. All remarks shall be addressed to the Council as a body, and not to any individual member thereof. No person, other than members of the Council, the city's Clerk-Administrator-Treasurer and the person having the floor shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked of the Council members or the city's Clerk-Administrator-Treasurer, except through the presiding officer. Individuals or groups not on the agenda will be allowed to speak for five minutes, or as allowed by Mayor, at the end of the agenda, but no action will be taken on anything presented.

(B) *Time limit for addressing the Council.* In order to facilitate matters and permit all of those who wish to express themselves to do so, presentations are limited to five minutes or as allowed by the

Mayor, except at official public hearings. The groups are encouraged to speak through a single spokesperson, rather than individually. Each speaker may yield part of his or her five-minute time allotment to another speaker.

(C) *Non-agenda items.* If a citizen desires official action on an item that is not included on the City Council's official agenda, the citizen shall be entitled to complete an agenda request form and return it to the office of the city's Clerk-Administrator-Treasurer not later than 12:00 p.m. the Wednesday prior to the meeting. The item will then be placed on a regular Council meeting agenda at the earliest convenient date, which shall be determined by the city's Clerk-Administrator-Treasurer.

(Ord. passed 1-21-2014)

§ 30.22 SUSPENSION OR AMENDMENT OF RULES.

These rules may be suspended or amended only by a two-thirds vote of the members present and voting.

(Ord. passed 1-21-2014)

§ 30.23 CONSENT AGENDA.

Any item will be removed from the consent agenda at the request of any individual Council member.

(Ord. passed 1-21-2014)

CHAPTER 31: OFFICIALS AND ORGANIZATIONS

Section

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CLERK-ADMINISTRATOR-TREASURER

§ 31.01 DUTIES.

(A) (1) The duties of the City Clerk-Administrator-Treasurer of the municipality shall include the duties of the Clerk-Treasurer.

(2) The City Clerk-Administrator-Treasurer shall give the required notice of each regular and special election, record the proceedings thereof, notify officials of their elections or appointments to office and certify to the County Auditor all appointments and the results of all municipal elections.

(3) There shall be kept:

(a) A minute book, noting therein all proceedings of the Council;

(b) An ordinance book, in which shall be recorded at length all ordinances passed by the Council;

(c) An account book, in which shall be entered all money transactions of the municipality, including the dates and amounts of all receipts and the person from whom the money was received and all orders drawn upon the Treasurer with the payee and object; and

(d) Ordinances, resolutions and claims considered by the Council need not be given in full in the minute book if they appear in other permanent records of the Clerk and can be accurately identified from the description given in the minutes.

(4) The City Clerk-Administrator-Treasurer shall act as the Clerk and bookkeeper of the municipality, shall be the custodian of its seal and records, shall sign its official papers, shall post and publish the notices, ordinances and resolutions as may be required and shall perform other appropriate duties as may be imposed upon him or her by the Council. For certified copies and for filing or entering, when required, papers not relating to municipal business, the Clerk shall receive the fees allowed by law to city clerks; but the Council may require the Clerk to pay the fees to the municipal treasury. With the consent of the Council, the Clerk may appoint a Deputy for whose acts the Clerk shall be responsible and whom may be removed at the Clerk's pleasure. In case of the Clerk-Administrator-Treasurer's absence from the municipality or disability, the Council may appoint a Deputy Clerk-Administrator-Treasurer, if there is none, to serve during the absence or disability. The Deputy may

discharge any of the duties of the Clerk-Administrator-Treasurer; except that, he or she shall not be a member of the Council.

(Prior Code, § 208.01)

(B) The City Clerk-Administrator-Treasurer shall:

(1) Direct the administration as provided by Council action and federal statutes and coordinate with the Council in administering municipal affairs;

(2) Prepare reports and summaries relating to contemplated municipal projects and/or improvements and submit them with recommendations as may be required to the Council for study and subsequent action;

(3) Prepare an annual fiscal budget and capital improvement plan for submission to the Council and maintain financial guidelines for the municipality within the scope of the approved budget and capital program;

(4) Prepare an annual financial statement and perform other duties as required in M.S. § 412.141, as it may be amended from time to time;

(5) Attend and participate in all Council meetings and attend, at discretion or by invitation, other committee and commission meetings;

(6) Coordinate municipal programs and activities as authorized by the Council;

(7) Submit quarterly reports to the Council of the financial condition of the municipal accounts;

(8) Supervise the conduct of local elections in accordance with the prescribed laws and regulations;

(9) Supervise the activities of all municipal department heads and administrative staff in the administration of municipal policy with authority to effectively recommend their employment and/or removal;

(10) Work in cooperation with the Council's appointed attorney and engineer;

(11) Prepare news releases, develop and discuss public relations material with all concerned and maintain good relations with general public;

(12) Consult with appointed officials and with other public or private agencies as may be required;

(13) Be fully informed regarding federal, state and county programs which affect the municipality;

(14) Negotiate or delegate the negotiations of the terms and conditions of employee labor relations contracts for presentation to the Council; and

(15) Perform all duties required by ordinances or resolutions adopted by the Council.
(Prior Code, § 208.02)

§ 31.02 KNOWLEDGE, SKILLS AND ABILITIES.

The City Clerk-Administrator-Treasurer shall have:

(A) Considerable knowledge of municipal government operations, proper procedures, public relations, finances, purchasing and all administrative requirements for proper municipal operation;

(B) Knowledge of or the ability to acquire full knowledge of all laws affecting the municipality;

(C) The ability to provide harmonious relations with municipal employees and the general public;
and

(D) The ability to plan development, to collect and analyze material for reporting and to conduct and implement studies of procedures, operations and organizations.
(Prior Code, § 208.03)

§ 31.03 EDUCATION AND EXPERIENCE.

High school diploma or its equivalent, associate degree in accounting or its equivalent, computer training and experience in administration are required.
(Prior Code, § 208.04)

§ 31.04 APPOINTMENT.

The City Clerk-Administrator-Treasurer is appointed by a majority of the Council for an indefinite term and may only be removed by a majority of the Council.
(Prior Code, § 208.05)

CONVENTION BUREAU

§ 31.15 AUTHORITY.

This subchapter is under the authority of M.S. § 469.190, Local Lodging Tax, as it may be amended from time to time.

(Ord. 12-01, passed 10-15-2012)

§ 31.16 FUNDING.

A 3% tax on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, resort or a campground other than the renting or leasing of it for a continuous period of 30 days or more. The tax imposed by this subchapter shall be paid at least quarterly by the operator of a lodging establishment identified herein whose facility has a minimum of five rooms or spaces for rent, the quarters ending March, June, September and December. The tax is to be paid not later than 20 days after the end of the quarter.

(Ord. 12-01, passed 10-15-2012)

§ 31.17 PENALTY FOR UNPAID TAX.

Unpaid tax due is subject to a 10% penalty and 8% interest (unpaid amount from line 6 x .10 (x 8.08) divided by 365 x days past due).

(Ord. 12-01, passed 10-15-2012)

§ 31.18 OPERATION.

The Bureau shall consist of five permanent voting members: two members from the city; two members from the Crossings Inn and Suites Hotel; and one member selected by the four members.

(Ord. 12-01, passed 10-15-2012)

§ 31.19 PURPOSE.

The Bureau shall meet as necessary and, at least quarterly, to develop and implement marketing strategies that will promote: the Prairie Event Center and the Crossings Inn and Suites Hotel, as a convention center; tourism; and the economic growth and diversity of all aspects of the city business community.

(Ord. 12-01, passed 10-15-2012)

PLANNING AND ZONING COMMISSION**§ 31.30 ESTABLISHMENT.**

If there is no specified Planning and Zoning Commission, the City Council will assume the responsibility of the Planning and Zoning Commission.
(Prior Code, § 204.01)

POLICE DEPARTMENT**§ 31.45 ESTABLISHMENT.**

A Police Department is hereby continued. The head of the Department shall be known as the Chief of Police and the number of additional members of the Department, together with their ranks and titles, shall be determined by the Council by resolution. The compensation to be paid members of the Police Department shall be fixed by the Council. Members of the Department shall be appointed by the Council.
(Prior Code, § 202.01)

§ 31.46 CHIEF OF POLICE.

The Chief of Police shall have supervision and control of the Police Department and its members. He or she shall be responsible to the Council for law enforcement and for property of the city used by the Department. He or she shall be responsible for the proper training and discipline of the members of the Department. He or she shall be responsible for the keeping of adequate records and he or she shall report to the Council on the needs of the Department and its work. Every member of the Department subordinate to the Chief shall obey the instructions of the Chief and any superior officer. The Council may designate one of the police officers as Acting Chief, who shall have all the powers and duties of the Chief during his or her absence or disability.
(Prior Code, § 202.02)

§ 31.47 DUTIES OF POLICE.

Members of the Police Department shall enforce the ordinances and laws applicable to the city, bring violators before the County Court and make complaint for offenses coming to their knowledge. Members of the Police Department shall serve processes on behalf of the city and shall serve notices as may be required by the Council or other authority. When the city is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law for city constables. All fees shall be paid into the city treasury.
(Prior Code, § 202.03)

§ 31.48 UNIFORM AND BADGE.

Each member of the Department shall, while on duty, wear a suitable badge and uniform, except that the Chief may authorize the performance of specific duties while not in uniform. When a member terminates his or her membership in the Department, he or she shall immediately deliver to the city his or her badge and all other property of the city in his or her possession.

(Prior Code, § 202.04)

§ 31.49 EXTRA POLICE.

In case of riot or other law enforcement emergency, the Mayor may appoint for a specified time as many police officers as may be necessary for the maintenance of law and order. During the term of appointment, the special police officers shall have only those powers and perform only those duties as shall be specifically assigned by the Chief of Police.

(Prior Code, § 202.05)

FIRE DEPARTMENT

§ 31.60 APPOINTMENT OF OFFICERS.

(A) All volunteer Fire Departments are established under the authority of state law, M.S. § 412.221, subd. 17, as it may be amended from time to time.

(B) All officers of the volunteer Fire Department shall be appointed by the City Council. These officers may be removed by the City Council for cause and after a public hearing. If one of the officers duly appointed shall resign his or her office, be removed from office by the City Council or dies during his or her term of office, the successor shall be duly appointed by the City Council as soon as is practical and no later than two weeks from the time the position becomes open. The officer so appointed is so appointed for any period of the unexpired term of the vacated office.

(C) (1) Firefighters and probationary firefighters shall be appointed by the City Council, or its designee, upon recommendation by the Fire Chief.

(2) The process of recruitment, selection, appointment and termination of firefighters and probationary firefighters shall follow all of the provisions of the Veterans Preference Act, being 5 U.S.C. §§ 851 et seq. and M.S. §§ 43A.11 and 197.46, as they may be amended from time to time.

(3) There shall be no discrimination on the basis of age, race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, sexual orientation or disability (except

based on a bona occupational qualifications) as provided by the state's Human Rights Act, M.S. §§ 363A.08 and 363A.28, as they may be amended from time to time.

(4) Firefighters shall continue as members of the volunteer Fire Department during good behavior until retirement, but may be removed by the City Council for cause after a public hearing.

(D) (1) As required by state law, M.S. § 412.241, as it may be amended from time to time, the City Council shall have full authority over the financial affairs of the volunteer Fire Department and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts and the safekeeping and disbursement of public money.

(2) This division (D) does not apply to the funds of any fire relief association.
(Prior Code, § 231.20)

§ 31.61 CHIEF; DUTIES.

The Chief shall have control of all firefighting apparatus and shall be responsible for its care and condition. The Chief shall make a report semi-annually to the City Council at its meetings in March and September as to the condition of the equipment and needs of the Fire Department. The Chief may submit additional reports and recommendations at any meeting of the City Council, and shall report each suspension of a member of the Fire Department at the first meeting of the City Council following the suspension. The Chief shall be responsible for the proper training and discipline of the members of the Volunteer Fire Department and may suspend any member for refusal or neglect to obey orders pending final action by the City Council on the members discharge or retention.

(Prior Code, § 231.21)

§ 31.62 RECORDS.

The Chief shall keep in convenient form a record of all fires. The record shall include the time of the alarm, location of the fire, cause of fire if known, type of building, name of owner or tenant, purpose for which occupied, value of building and contents, members of the Fire Department responding to the alarm and other information as the Chief may deem advisable or as may be required from time to time by the City Council or state law or regulation.

(Prior Code, § 231.23)

§ 31.63 PRACTICE DRILLS.

It shall be the duty of the Chief, when weather permits, to hold practice drills for the Fire Department and to give the firefighters instruction in approved methods of firefighting and fire prevention.

(Prior Code, § 231.24)

§ 31.64 ASSISTANT CHIEF.

In the absence or disability of the Chief of the Fire Department, the Assistant Chief shall perform all functions and exercise all of the authority of the Chief.

(Prior Code, § 231.25)

§ 31.65 FIREFIGHTERS.

(A) Firefighters shall not be less than 18 years of age and able-bodied.

(B) They shall become members of the Fire Department only after a 12-month probationary period.

(C) The City Council may require that each candidate, before he or she may become a probationary firefighter, must possess certain minimum height, weight, education, mental and physical health requirements and any other qualifications which may be specified by the City Council.

(Prior Code, § 231.26)

§ 31.66 COMPENSATION.

The members and officers of the volunteer Fire Department shall receive compensation as provided by the City Council.

(Prior Code, § 231.28)

§ 31.67 INTERFERENCE WITH DEPARTMENT.

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause or to neglect or refuse to obey any reasonable order of the Chief or other firefighter at a fire, or to interfere with the volunteer Fire Department in the discharge of its duties.

(Prior Code, § 231.29) Penalty, see § 10.99

§ 31.68 POLICIES AND PROCEDURES.

The volunteer Fire Department may adopt policies and procedures for the operation of the Department which shall be effective upon approval by the City Council. Any provision of these policies and procedures which is inconsistent with state and federal law, including the Veterans Preference Act of 1944, being 5 U.S.C. §§ 851 et seq., Human Rights Act, being M.S. Ch. 363A, as it may be amended from time to time and state laws requiring the City Council to control Fire Department finances, shall be unenforceable and void.

(Prior Code, § 231.30)

CHAPTER 32: FINANCE AND REVENUE; FUNDS

Section

- 32.01 Community Health Care Trust Fund
- 32.02 Emergency protection fire services for property fees

§ 32.01 COMMUNITY HEALTH CARE TRUST FUND.

(A) *Purpose.* The City Council has determined that this section should be passed to adopt and enforce the policies and procedures for the administration of the Community Health Care Trust Fund.

(B) *Administration.* The Community Health Care Trust Fund shall be administered pursuant to the policies and procedures for the administration of the Community Health Care Trust Fund, attached to the ordinance codified herein as “Exhibit A”, incorporated herein and made a part of this section.

(C) *Penalty.*

(1) *Personal liability.* Any person who intentionally violates the policies and procedures as set forth in this section shall be subject to personal liability in the form of a civil penalty in an amount not to exceed an amount in accordance with the current city fee schedule for a single occurrence, which shall not be payable by any public body.

(2) *Who may bring an action, where.* An action to enforce the penalty in division (C)(1) above may be brought by any person in the county’s District Court.

(3) *Forfeit of employment, office or appointed position if three violations.*

(a) If a person has been found to have intentionally violated this section while serving in as employee or an elected or appointed official for the city or as a member of the Community Health Care Trust Fund Advisory Committee in three or more actions brought under this section, the person shall forfeit any further right to serve in the capacity and for elected or appointed officials the forfeiture of the right to serves shall be for a period of time equal to the term of office or appointment the person was then serving.

(b) The court determining the merits of any action in connection with any alleged third violation shall receive competent, relevant evidence in connection therewith and, upon finding as to the occurrence of a separate third violation, unrelated to the previous violations, issue its order declaring the position vacant and notify the appointing authority and the City Clerk-Administrator-Treasurer.

(c) As soon as practicable thereafter, the appointing authority shall fill the position as in the case of any other vacancy.

(4) *Other remedies, requirements, limits.*

(a) In addition to other remedies the court may award reasonable costs, disbursements and reasonable attorney fees up to an amount in accordance with the current city fee schedule to any party in an action under this section.

(b) The court may award costs and attorney fees to a defendant only if the court finds that the action under this section was frivolous and without merit.

(c) No monetary penalties or attorney fees may be awarded against any person unless the court finds that there was a specific intent to violate this section.

(Ord. 06-02, passed 3-27-2006)

§ 32.02 EMERGENCY PROTECTION FIRE SERVICES FOR PROPERTY FEES.

(A) *Purposes and intent.* This section is adopted for the purpose of authorizing the city to charge for fire service as authorized by M.S. §§ 366.011, 366.012 and 415.01, as they may be amended from time to time.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE PROTECTION CONTRACT. A contract between the city and a town or other city for the city to provide fire service.

FIRE SERVICE. Any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

FIRE SERVICE CHARGE. The charge imposed by the city for receiving fire service.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi-trailers. It does not include snowmobiles, manufactured homes, all-terrain vehicles, or park trailers.

MUTUAL AID AGREEMENT. An agreement between the city and a town or other city for the Fire Department to provide assistance to the Fire Department of a town or other city.

(C) *Parties affected.*

- (1) Owners of property within the city who receive fire service;
- (2) Anyone who receives fire service as a result of a motor vehicle accident or fire within the city; and
- (3) Owners of property in towns or cities to which the city provides fire service pursuant to a fire protection contract.

(D) *Rates.*

- (1) First hour of service: \$500; and
- (2) Each additional hour: \$250, with a maximum charge of \$1,000 per fire call.

(E) *Billing and collection.*

(1) Parties requesting and receiving fire services may be billed directly by the city. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

(2) Parties billed for fire service -will have 60 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency.

(3) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the city including, but not limited to, reasonable attorney fees and court costs.

(4) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.

- (5) False alarms will not be billed as a fire call.

(F) *Mutual aid agreement.* When the Fire Department provides fire service to another fire department pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

(G) *Application of collections to budget.* All collected fire charges will be city funds and used to offset the expenses of the Fire Department in providing fire services.
(Ord. 2019-04, passed 8-19-2019)

CHAPTER 33: PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS

Section

- 33.01 General policy
- 33.02 Improvements eligible for special assessment
- 33.03 Initiation of public improvement projects
- 33.04 Public improvement procedures
- 33.05 Financing of public improvements
- 33.06 General assessment policies
- 33.07 Definitions of improvements
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- 33.09 Standards for public improvement projects
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§ 33.01 GENERAL POLICY.

(A) The City Charter assigns to the City Council the responsibility for making public improvements. It has been and will continue to be the policy of the City Council that when the improvements are made which are of benefit to certain areas, special assessments will be levied not to exceed benefits received. The procedures used by the city for levying special assessments are those specified by M.S. Ch. 429, as it may be amended from time to time, which provides that all or a part of the cost of improvements may be assessed against benefitting properties. The statute, however, provides no statutory guide as to how these benefits are measured or how the costs are to be apportioned. The actual assessment apportionment must be made in accordance with policies adopted by the City Council. The purpose of this general policy is to establish a consistent standard for the apportionment of special assessments, and to provide the public with basic information on the improvement process and financing procedures. Therefore, it is understood that the following shall constitute a statement of the policy of the City Council regarding improvements and assessments. It is also intended that the policies shall be applicable to all land within the city, platted or unplatted, and shall be complementary to the city subdivision regulations, City Charter and city ordinances.

(B) The city must recover the expense of installing public improvements, while ensuring that each parcel pays its fair share of the project cost in accordance with these assessment guidelines. While there is no perfect assessment policy, it is important that assessments be implemented in a reasonable,

consistent and fair manner. There may be exceptions to the policy or unique circumstances or situations that may require special consideration and discretion by city staff and the City Council.

(C) The assessment policy is intended to serve as a guide for a systematic assessment process in the city.

(Res. 08-05, passed 9-15-2008)

§ 33.02 IMPROVEMENTS ELIGIBLE FOR SPECIAL ASSESSMENT.

The following public improvements, authorized by M.S. § 429.021, as it may be amended from time to time, are eligible for special assessment within the city:

(A) Streets, sidewalks, alleys, curbs and gutters;

(B) Water main systems;

(C) Sanitary sewer and storm sewer systems;

(D) Street boulevard trees;

(E) Street lights; and

(F) Other improvements:

(1) Acquisition and improvement of land and purchase of equipment for parks, open space areas, playgrounds and recreational facilities;

(2) Acquisition and construction of parking lots;

(3) Construction, reconstruction, extension and maintenance of dikes and other flood control works;

(4) Construction, reconstruction, extension and maintenance of retaining walls and area walls; and

(5) Abatement of nuisances.

(Res. 08-05, passed 9-15-2008)

§ 33.03 INITIATION OF PUBLIC IMPROVEMENT PROJECTS.

Initiation of public improvement projects can be undertaken in any of the three following ways:

(A) Public improvement projects may be initiated by petition of at least 35% of the affected property owners;

(B) Public improvements also may be initiated by the City Council when, in its judgment, the action is required. A resolution ordering any Council initiated improvements requires a four-fifths majority of the Council; and

(C) At the request of a developer of the proposed subdivision who may petition the City Council to construct the improvements and assess them as represented in an agreed upon development agreement. (Res. 08-05, passed 9-15-2008)

§ 33.04 PUBLIC IMPROVEMENT PROCEDURES.

(A) The following is the general procedure that will be followed by the City Council for all public improvement projects from initiation of a project through certification of the assessment roll to the County Auditor.

(B) 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 for submission to Council;

(2) Council accepts or rejects petition. If accepted, Council orders preparation of feasibility report;

(3) Council accepts or rejects feasibility report. If accepted, Council orders public hearing on the improvements;

(4) Staff posts and publishes hearing notices and mails notices to affected property owners;

(5) Council conducts public hearing and adopts or rejects resolution ordering improvement to be constructed, the preparation of plans and specifications and advertisement of bids. Bonds to finance project costs may be issued at any time after the improvements are ordered;

(6) Staff prepares final plans, submits to Council for approval, advertises for and opens bids, prepares bid tabulation, makes recommendation to City Council for award;

(7) Council awards contract based on the bids received;

(8) Project is initiated and completed;

(9) Staff prepared assessment roll;

(10) Council reviews assessment schedule and orders assessment hearing;

(11) Staff publishes hearing notice and mails notice of hearing date and proposed assessments to the affected property owners;

(12) Council conducts assessment hearing, adopts, revises or rejects resolution adopting the assessment roll. If adopted, Council authorizes certification of the assessment to the County Auditor; and

(13) Staff certifies the assessment roll to the County Auditor.
(Res. 08-05, passed 9-15-2008)

§ 33.05 FINANCING OF PUBLIC IMPROVEMENTS.

(A) The city encourages public improvement projects as the area(s) benefitting and needing the improvements develop. Examples of this policy can be seen through the subdivision regulations, zoning ordinance and building codes. New areas are required to provide the needed improvements and services before development occurs, thereby not creating unexpected hardships on the property owners purchasing the property nor on 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.

(B) 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.

(C) It is the policy of the city to not defer assessments, except in cases where hardship to senior citizens 65 years of age or older or persons retired by virtue of a permanent and total disability would result. Also, the City Council may elect to defer assessments on undeveloped lands for a specified length of time or until the land is developed. Terms and conditions of this deferral will be established in the resolution adopting the assessments.

(Res. 08-05, passed 9-15-2008)

§ 33.06 GENERAL ASSESSMENT POLICIES.

(A) The cost of any improvement shall be assessed upon the property based upon cost and benefits received.

(B) The following general principles shall be used as a basis of the city's assessment policy.

(1) 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, capitalized interest and interest lost by the city on savings used to finance project prior to bond proceeds becoming available.

(2) The assessable cost of an improvement is equal to the project cost, minus the city share.

(3) Terms of special assessments will be established based upon the cost of the improvement as well as the affordability of the annual assessment payment for property owners. As a general rule, the term of the assessment should not exceed ten years.

(4) 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 2% more than the average interest rate of the bonds, rounded to the nearest quarter of a percent. If project is financed internally, the interest rate shall be set at the rate allowed by state law.

(5) Property owners may pay their assessments in full, interest free for a period of 30 days after the assessment hearing. After that period, interest shall be computed from the date specified in the assessment resolution. The city will certify each year's collection (principal and interest) to the County Auditor by November 30. Prior to the first certification of principal and interest to the County Auditor, a property owner may make a partial prepayment of the principal to the city. The partial prepayment must be at least an amount in accordance with the current city fee schedule. 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. If a parcel has two or more separate special assessments, prepayment of the remaining principal balance may be made on one or more. Tax-exempt parcels such as churches and school properties may make a partial prepayment at any time, with a minimum partial prepayment of one-half of the principal balance. The tax-exempt parcel will be allowed to make only one partial prepayment to the first certification to the County Auditor. The remaining principal after the partial prepayment will be paid over the remaining term of the special assessments.

(6) Where an improvement is designed for service of an area beyond that of direct benefit, increased project costs due to those provisions for future service extensions may be paid for by the city. The city will levy assessments to cover this cost when a new improvement is installed as an extension of the existing improvement. As an alternative, the city may assess these costs to the area of future benefit immediately.

(7) Where the project cost of an improvement is not entirely attributed to the need for service to the area served by the 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 the “city cost” which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served.

(8) 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 the frontage roads shall be assessable to the benefitted properties, even if only those properties on one side of the frontage roads are benefitted.

(9) If financial assistance is received by the city from the Federal Government, the state, the county or from any other source to defray a portion of the costs of a given improvement, the aid will be used to reduce the total project cost. The remaining balance to be assessed according to these assessment policies unless otherwise directed by the agency providing the funding.

(10) 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 as if the property was privately owned.

(11) Improvements specifically designed for or shown to be of direct benefit to one or more properties must be approved by and may be constructed by the city. If the city constructs the improvements, the costs for these improvements will be charged directly to the properties, and not included in the assessments for the remainder of the project. An example of this would be additional, oversized or relocated utility service lines running from the main lines to the property.

(12) 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 (increased property value, as defined by state law), the Council may order benefit appraisals as deemed necessary to support the proposed assessments.

(13) For easements and/or right-of-way, the city may elect to offset special assessments against land acquisition by executing a net assessment agreement with the City Council.
(Res. 08-05, passed 9-15-2008)

§ 33.07 DEFINITIONS OF IMPROVEMENTS.

For the purposes of this assessment policy, the following definitions are provided.

(A) *New street, curb and gutter construction.* New street, curb and gutter construction is defined as the construction of street, curb and gutter improvements where no street, curb and/or gutter improvements have previously existed or where the existing street is upgraded from a rural street section to an urban street section. **RURAL SECTION** is defined as a street having ditches to direct surface water drainage. **URBAN SECTION** is defined as a street having concrete curb and gutter and storm sewer to direct surface water drainage.

(B) *Reconstruct street, curb and gutter.* **STREET, CURB AND GUTTER RECONSTRUCTION** is defined as the street, curb and gutter improvements which require existing streets, curbs and gutters to be reengineered to meet current design standards and require the base or subsurface modification or removal. Bituminous surfacing on existing unpaved streets requiring base or subsurface modification or removal. Bituminous surfacing on existing unpaved streets requiring base or subsurface improvements will be deemed a new street construction project.

(C) *Overlay street.* **STREET OVERLAYS** are defined as bituminous improvements which may involve milling, substantial repair or resurfacing of existing bituminous street surfaces.

(D) *New storm sewer.* **NEW STORM SEWER CONSTRUCTION** is defined as the construction of storm sewer improvements where no engineer designed storm sewer improvements have existed previously.

(E) *Replace storm sewer.* **STORM SEWER REPLACEMENT** is defined as the construction of storm sewer improvements that replace undersized or damaged lines that previously existed.

(F) *New water and/or sewer mains.* **NEW WATER AND/OR SEWER MAIN LINES** are defined as the publicly owned and maintained lines, such as trunk lines interceptors, mains, laterals and the like that previously did not exist.

(G) *Replace water and/or sewer mains.* **REPLACEMENT OF WATER AND/OR SEWER MAIN LINES** is defined as the replacement of publicly-owned and maintained lines, such as trunk lines, interceptors, mains, laterals and the like that previously existed.

(H) *Alley.* **ALLEYS** are defined as the secondary access to a commercial or residential property that is shared by adjacent properties.

(I) *New sidewalks.* **NEW SIDEWALK CONSTRUCTION** is defined as the construction of sidewalk improvements where these improvements have not existed before.

(J) *Replace sidewalks residential.* **RESIDENTIAL SIDEWALK REPLACEMENT** is defined as the replacement of existing damaged or missing improvements that previously existed in an area designated as a residential district on the city zoning map.

(K) *Replace sidewalks commercial.* **COMMERCIAL SIDEWALK REPLACEMENT** is defined as the replacement of existing damaged or missing improvements that previously existed in an area designated as commercial district on the city zoning map.

(L) *New water and/or sewer service lines.* **NEW WATER AND/OR SEWER SERVICE LINES** are those privately-owned service lines going from the main line to the property line which have not existed previously.

(M) *Replace water and/or sewer service lines.* **REPLACEMENT OF WATER AND/OR SEWER SERVICE LINES** is defined as the replacement of those privately-owned service lines going from the

main line to the property line which are damaged, missing or replacement is otherwise deemed necessary by the city and its Engineer due to a main or system replacement or required by the state's Department of Health or other state agency.

(N) *Street lighting and above grade improvements.* **STREET LIGHTING AND ABOVE GRADE IMPROVEMENTS** are defined to include all improvements visible above the ground within the right-of-way, and includes, but is not limited to, trees, lighting, signing, signalization and other public improvements, such as parking lots, parks and playgrounds.

(Res. 08-05, passed 9-15-2008)

§ 33.08 METHODS OF ASSESSMENT.

(A) *General statement.* There are different methods of assessment: per lot, adjusted front foot and area. For any particular project, one of these methods will more adequately reflect the true benefits received in the assessment area than the other methods. The City Engineer, in his or her feasibility study to the Council, will recommend one or a combination of these methods for each project, based upon which method would best reflect the benefit received for the area to be assessed. The City Council will select the preferred method of calculating the assessments at the time the project is ordered.

(B) *Policy statement.* The following methods of assessment, as described and defined below, are hereby established as the official methods of assessment in the city.

(1) *Adjusted front footage method of assessment.*

(a) The **COST PER ADJUSTED FRONT FOOT** shall be defined as the quotient of the assessable cost divided by the total assessable frontage benefitting from the improvement. For the purpose of determining the assessable frontage, all properties shall have their frontages included in the calculation.

(b) The actual physical dimensions of a parcel abutting an improvement (i.e., street, sewer, water and the like) shall not be constructed as the frontage utilized to calculate the assessment for a particular parcel. Rather, an 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 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 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 five feet difference between the front and rear lot lines. The adjusted front footage is the actual front footage of the lot. An **INTERIOR LOT** is defined as a lot, which is boarded on three sides by either other lots or an alley.

2. *Odd-shaped lots.* For odd-shaped lots such as exist on cul-de-sacs and curved streets where there is more than five feet difference between the front and rear lot lines, the odd shaped lot method of determining the adjusted front footage method shall be used. The adjusted front footage shall be computed by dividing the area of the lot by the average side yard dimensions of the lot.

3. *Corner lot adjustment.* For street assessments, the short side will be assessed the actual front footage. Fifty percent of the long side will be assessed. Sanitary sewer and water main will only be assessed on the short side of a corner lot.

(2) *Area method of assessment.*

(a) When it has been determined to assess by the area method, the area shall be defined as the number of square feet within the boundaries of the appropriate property lines of the areas benefitting from the improvement. The assessment rate (i.e., cost per square foot) shall be calculated by dividing the total assessable cost by the total assessable area.

(b) For the purposes of defining assessable areas, all properties included in the benefitted area, including other governmental areas, churches and the like, shall be included in the assessable areas. The following items may not be included in area calculations: public rights-of-way; natural waterway; swamps and lakes; and other wetlands designated by the MN/DNR or city. The City Engineer will make the recommendation of the benefitted area in the feasibility report.

(3) *Per lot method.* When it has been determined to assess by the per lot method, all lots within the benefitted area shall be assessed equally for the improvements. The ***COST PER LOT*** shall be defined as the quotient of the assessable cost divided by the total assessable lots or parcels benefitting from the improvement. For the purpose of determining the lots or parcels, all parcels, including governmental agencies, shall be included in the calculations.

(Res. 08-05, passed 9-15-2008)

§ 33.09 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.*

(1) Surface improvements shall normally be interpreted to 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 surfacing, curb and gutter, drainage facilities, grading, signalization and other public improvements, such as drainage ponds and facilities, parking lots, parks and playgrounds.

(2) In all streets, prior to street construction and surfacing, or prior to resurfacing, all utilities and utility service lines, (including, but not limited to, sanitary sewers, storms sewers, subsurface drains, water lines, gas, cable television, telephone and electric service) shall be installed to serve each known or assumed building location when practical.

(3) When practical, no surface improvement to less than both sides of a full block of street shall be approved, except as necessary to complete the improvement of a block that has previously been partially completed. Concrete curbing or curb and gutter shall be installed at the same time as new street construction.

(B) *Subsurface improvements.*

(1) Subsurface improvements shall normally include such items as water distribution, sanitary sewer and storm sewer lines, subsurface drains and electric, cable television, telephone and gas utilities.

(2) For purposes of definition, **MAIN LINES** are defined as the publicly-owned and maintained lines, such as trunk lines, interceptors, mains, laterals and the like. The service lines are those privately-owned service lines going from the main line to the property line.

(3) Subsurface improvements shall be made to serve current and projected land use. All installations shall conform to city standards as established by those state and/or federal agencies having jurisdiction over the proposed installations. All installations shall also comply, to the maximum extent feasible, to the quasi-official nationally recognized standards.

(4) Service lines from the lateral or trunk to the property line for each known or assumed building location will be installed in conjunction with the construction of the mains.
(Res. 08-05, passed 9-15-2008)

§ 33.10 POLICIES OF REASSESSMENT.

(A) The city, in constructing or reconstructing any public improvement, shall design the improvement to last for a definite period. The life expectancy or service life shall be as stated in § 33.01 of this chapter. When the project needs renewing or replacement, the amount to be assessed against the property owner shall be limited to an amount determined by dividing the actual life of the original improvement by the expected service life of the original improvement.

(B) The following are hereby established as the life expectancies or service lives of public improvements:

- (1) Sidewalks and trails: ten years;
- (2) Street improvements, with concrete curb and gutter: 25 years;

- (3) Street improvement without concrete curb and gutter: ten years;
- (4) Street lighting: 20 years;
- (5) Water mains: 30 years;
- (6) Sanitary sewers: 30 years; and
- (7) Storm sewers: 30 years.

(Res. 08-05, passed 9-15-2008)

§ 33.11 ASSESSMENT COMPUTATIONS.

The following assessment computations apply to all developed, partially developed and/or previously platted areas within the city.

(A) Street and curb and gutter improvements.

(1) *New constructions.* All new streets, curbs and gutters will be assessed 75% to the abutting benefitted properties and 25% to the city. Street and curb and gutter improvements will normally be assessed based on the minimum design of seven-ton axle load in residential areas and nine-ton axle load in commercial and industrial areas. Oversizing and overdepthing costs beyond the customary, which are incurred in excess of the above may be paid by:

- (a) State funds;
- (b) General obligations funds; or
- (c) Any other method or combination or methods authorized by the City Council.

(2) *Reconstruction.* All street reconstruction and overlays will be assessed at 70% city cost and 30% private.

(3) *Overlays.* All street reconstruction and overlays will be assessed at 50% city cost and 50% private.

(4) *Reconstruction of curb and gutter.* All curb and gutter reconstruction will be 50% assessable and 50% city cost.

(5) *Gravel streets.* Upgrading an existing gravel street by adding pavement, curb and gutter shall be considered new construction and all costs will be 50% assessed and 50% city cost.

(6) *Sealcoats.* Sealcoats will not be assessed.

(7) *Alleys*. Improvements to alleys will be considered on a case-by-case basis.

(B) *Sidewalks/walkways*.

(1) *New construction*. In residential and commercial areas, new sidewalks will be assessed 100% to the abutting property on which the sidewalk is located.

(2) *Reconstruction*. In residential and commercial areas of the city, 100% of the cost of sidewalk reconstruction will be assessed to abutting properties unless the improvement has not exceeded its designated useful life as identified in this policy. In such a case, the reconstruction would then be assessed on a prorated portion of expected life.

(3) *Trails*. Bituminous walkways and/or bicycle trails will not be assessed, but rather funded 100% by the city. New subdivisions will be assessed 10% for bituminous walkways/bicycle trails.

(C) *Storm sewer improvements*. Storm sewers, new and replacement, are 25% assessable and will normally be charged on a benefitted area basis.

(D) *Sanitary sewer and water mains*.

(1) Assessment for sanitary sewer in residential areas shall be based upon the cost of construction of eight-inch sewer mains and six-inch water mains (residential), eight-inch sewer (commercial and industrial), which is the minimum size approved by the state's Pollution Control Agency. The cost of new water and sewer main construction will be 30% city cost and 70% assessable to benefitting property owners on an adjusted front footage method. Replacement of water and sewer mains will be 70% city cost and 30% assessable to benefitting property owners.

(2) Oversizing costs due to improvements designed for service of an area beyond that of direct benefit and increase project costs due to the provisions for future service extensions may be paid for by the city. However, the city will levy assessments to cover this cost when a new improvement is installed as an extension of the existing improvement. As an alternative, the city may assess these costs to the area of future benefit immediately.

(3) Lateral benefit from major trunk sewers or interceptors will be assessed to the properties benefitted by the sewer. Any oversizing costs will be assessed as described above. Normally, water and sewer mains will be assessed on a front footage basis; but, in certain situations, the area or adjusted lot method may be utilized at the City Council's discretion.

(E) *Sewer and water service lines*. Any new service line or existing service lines found to be defective, based on life expectancy, as part of a street reconstruction shall be replaced as part of the project and assessed 100% directly to the property.

(F) *Street boulevard trees.* All street boulevard trees installed as part of new street constructions or in reconstructing existing streets shall be included as part of the overall project costs included in the assessment calculations.

(G) *Street lights.* All costs for new street lights installed as part of constructing new streets or street lights relocated as part of reconstructing streets will be included in the overall project costs and included in the assessment calculations.

(H) *Sewer and water connection fees.* A one-time connection fee will be charged for properties making an initial connection to city services. Residential properties making the initial hook-up will be charged an amount in accordance with the current city fee schedule for a sewer connection and an amount in accordance with the current city fee schedule for a water connection. Commercial and industrial properties will be assessed a one-time charge of an amount in accordance with the current city fee schedule and may be adjusted from time to time as warranted. Payment must be made prior to connection being made.

(I) *Other improvements.*

(1) Based on the City Council determination, all other improvements listed in § 33.02 of this chapter may be fully assessed or assessed in part.

(2) The following assessment computations apply to all new developments and subdivisions platted after the date of the approval of this assessment policy.

(a) All improvements proposed for new subdivisions will be 100% assessable.

(b) Unless otherwise determined, distribution of assessable costs will be determined on a per lot basis.

(c) Trunk costs, where necessary, due to larger mains will be assessed as determined by the Engineer. Trunk area assessments shall be levied against all unplatted property at the time of development.

(Res. 08-05, passed 9-15-2008)

§ 33.12 DEFERMENT OF SPECIAL ASSESSMENTS.

(A) The City Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability, and the City Clerk-Administrator-Treasurer is hereby authorized to record the deferment of special assessments according to M.S. §§ 435.193 through 435.195, as they may be amended from time to time.

(B) The determent shall be granted for as long a period of time as the hardship exists and the conditions according to M.S. § 435.193, as it may be amended from time to time, have been met.

(C) The entire amount of deferred special assessments shall be due within 60 days after loss of eligibility by the applicant. If the special assessment is not paid within the 60 days, the City Clerk-Administrator-Treasurer shall add thereto interest at a per annum interest rate of 2% above the bond interest rate from date assessments were adopted through December 31 of the following year. The total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the City Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the City Council may order that the applicant pay within 60 days a sum equal to the number of installments or deferred special assessment 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.

(D) 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; and

(4) Determination by the City Council for any reason that there would be hardship to require immediate or partial payment.

(E) Deferred assessments will be considered by the City Council for developers with at least eight platted buildable residential lots. Only principal payments shall be deferred for a period of not more than two years against the improved property and apply at time of assessment or sale.

(F) If the city installs utility facilities which benefit property which lies outside the corporate limits, that area and the allocable costs shall be included in the original public hearing for the improvement. The city may attempt to negotiate a contract with the property owner of the property lying outside the city which will provide for payment to the city on the same basis as if the property were within the city and to be assessed for the improvement as a prepayment upon completion of the project. If a contract cannot be executed, the city will assume the temporary responsibility for payment of the cost allocable to the property lying outside the city limits. In that event, the original principal amount of the assessment, if it had been assessed, plus accumulated interest, shall be increased annually by the percentage to be determined by Council up to a maximum of 15 years for which no payment is made. At the time of annexation of the property to the city, a subsequent public hearing may be held for that property and assessment roll prepared, adopted and certified to the County Auditor, payable at the same rate and terms, except for the total amount, as were applicable to the assessment of benefit for facilities previously installed, and to make the assessment at the same time it causes to be constructed other public improvement on the property following its annexation. When property lies outside the city limits, no physical connection to the city's utility or drainage system will be permitted until a utility agreement and contract, including satisfaction of costs or assessments, is executed.

(G) Notwithstanding the provisions of any law to the contrary, any county, statutory or home rule charter city, or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homestead property owned by a person 65 years of age or older or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments. Any county, statutory or home rule charter city, or town electing to defer special assessments shall adopt an ordinance or resolution establishing standards and guidelines for determining the existence of a hardship and for determining the existence of a disability, but nothing herein shall be construed to prohibit the determination of hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines where the determination is made in a non-discriminatory manner and does not give the applicant an unreasonable preference or advantage over other applicants.

(H) The homeowner shall make application for deferred payment of special assessments on forms prescribed by the County Auditor in which the homestead is located. Where the deferred assessment is granted, the Auditor shall record a notice thereof with the County Recorder, which shall set forth the amount of the assessment. The taxing authority may determine, by ordinance or resolution, the amount of interest, if any, on the deferred assessment and this rate shall be recorded by the Auditor along with and in the same manner as the amount of the assessment.

(I) 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 of the following events:

(1) The death of the owner; provided that, the spouse is otherwise not eligible for the benefits hereunder;

(2) The sale, transfer or subdivision of the property or any part thereof;

(3) If the property should for any reason lose its homestead status; or

(4) If, for any reason, the taxing authority deferring the payments shall determine that there would be not hardship to require immediate or partial payment.

(Res. 08-05, passed 9-15-2008)

CHAPTER 34: PERSONNEL POLICIES

Section

34.01 Personnel policies adopted by reference

§ 34.01 PERSONNEL POLICIES ADOPTED BY REFERENCE.

The city's personnel policies, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.

(Prior Code, §§ 206.01—206.19) (Ord. passed 8-31-1992; Ord. passed 9-13-1993; Ord. passed 4-17-2006; Ord. passed - -2010)

