

CHAPTER 3: STREET, PARK, AND PUBLIC PROPERTY AND IMPROVEMENT

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Part 1. Street Excavations.

301.01. Permit required. No person, except an authorized city employee or a contractor performing work under a contract with the city, shall make any excavation in a street, alley, sidewalk, or public ground without first having secured a permit therefor from the clerk. The fee for such permit shall be \$145.00 for each location covered by the permit, but no fee shall be required for an excavation made pursuant to a permit for sewer or water construction.

301.02. Application and regulations. The clerk shall prepare the necessary application forms and permits required under section 301.01. The clerk shall also prepare such rules and regulations with respect to excavations as the council finds necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks, and public ground. Any person making an excavation covered by this section shall comply with such rules and regulations.

301.03. Bond. Any permittee, except a public utility corporation or a bonded plumber, shall file with the clerk a corporate surety bond, cash deposit or certified check in the amount of \$1,500 conditioned that the permittee will:

- a. Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
- b. Indemnify the city and hold it harmless from all damage caused in the execution of such work; and
- c. Pay all costs and damages suffered by the city by reasons of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work;

(The bond shall be approved as to form and legality by the city attorney.)

301.04. Permit denial. Failure to comply with the conditions of this part of the code shall be grounds for denial of future permits.

301.05. General regulations for excavations. Street openings shall be made in a manner that will cause the least inconvenience to the public. Provision shall be made for the passage of water along the gutters and at least one-half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavation shall be guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a city main or pipe so that it might be damaged by freezing shall be liable to the city for all damages caused by such freezing and all damages sustained by others by such freezing for which the city may be liable.

301.06. Refilling excavations. Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the city street commissioner or parks commissioners, as appropriate. All dirt and debris shall be removed immediately. Any person who fails

to comply with these requirements within 24 hours after notice by the city shall be liable to the city, for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley, or public ground to its proper condition. The costs shall be an obligation of the surety on the bond of the permittee.

301.07. Map of subsurface installations; locates. The maps for city water and sewer line locations shall be maintained by the city clerk. All other subsurface utility maps are maintained by the utility companies and, prior to any excavation, notification will be given to Gopher State One-Call by the excavator as required under MN Stat. 216D.

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Part 2. Assessable Current Services; Obligation of Property Owners and Occupants

302.01. Definition. The term “current service” as used in this part of the code means one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass ploys adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building include in Minn Stat. 463.15 – 463.26; installation or repair of water service lines; street sprinkling street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

302.02. Snow, ice, dirt, and rubbish.

Subd. 1. Duty of owners and occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit Theron. Failure to comply with this section shall constitute a violation.

Subd. 2. Removal by city. The street commissioner may cause removal from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 24 hours after any such matter has been deposited thereon or after the snow has ceased to fall. The clerk shall keep a record showing the cost of such removal adjacent to each separate lot and parcel.

302.03. Weed elimination.

Subd. 1. Weeds as a nuisance. Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the city to a greater height than 6” inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

Subd. 2. Notice. On or before June 1 of each year at such other times as ordered by resolution of the council, the city clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by Subd. 1 to be a nuisance and stating that if not do destroyed within 10 days after publication of the notice, the weeds will be destroyed by city employees at the expense of the owner and that if not paid, the charge for such work will be made a special assessment against the property concerned.

302.04. Public health and safety hazards. When the city removes or eliminates public health or safety hazards from private property under city ordinance the administrative officer responsible for doing the work shall keep a record of the cost or such removal or elimination against each parcel or property affected and annually deliver such information to the city clerk.

302.05. Installation and repair of water service lines. Whenever the city installs or repairs water service lines serving private property under Chapter IV of this code, the clerk shall keep a record of the total cost of the installation or repair against the property.

302.06. Personal liability. The owner of property on which (or adjacent to which, in the case of streets, alleys, and sidewalks) a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the costs determined, the city clerk or other designated official shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the city clerk.

302.07. Damage to public property. Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway, or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of such vehicle, equipment, or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object, or contrivance weighing in excess of the maximum weight permitted by statute or this code. When such driver is not the owner of such vehicle, equipment, object, or contrivance, but is so operating, driving, or moving the same with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by the act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under Minn. Stat. 514.67.

302.08. Assessment. On or before September 1 of each year, the clerk shall list the total unpaid charges for each type of current service and charges under section 302.08 against each separate lot of parcel to which they are attributable under this ordinance. The council may then spread the charges against property benefitted as a special assessment under Minn. Stat. 429.01 and other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the council may determine in each case.

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Part 3. Local Improvement Policy

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Part 3. Local Improvement Policy

303.01. Cut-off date for petitions. Petitions for construction of curb and gutter, asphalt surfacing, and sewer or water conduit shall be filed with the city clerk on or before April 1 or the year of requested construction.

303.02. Classification of projects.

Subd. 1. In general. Public improvements are divided into the three classes specified in the following subdivisions according to their respective benefit to the whole city and to property specially serviced by the improvement and taking into account past city practice consistent with an equitable system of paying and collecting for the cost of improvements.

Subd. 2. Class A. Class A improvements are those which are of general benefit to the city at large, including: 1) public buildings except a building which is part of an improvement described in one of the following subdivisions; 2) any public park, playground, or recreational facility; 3) the installation and maintenance of street lighting systems; and 4) any improvement not described in Minn. Stat. 429.21, Subd. 1. Any such improvement shall be financed from general city funds and not from special assessments.

Subd. 3. Class B. Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include; 1) trunk water mains larger than six inches; 2) truck sanitary sewer mains larger than eight inches; 3) permanently surfacing arterial streets; 4) storm sewers; 5) the construction of off-street parking facilities.

Subd. 4. Class C. Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvements, including: 1) the construction of sidewalks; 2) the construction of water mains no larger than six inches in diameter; 3) the construction of sanitary sewer mains no larger than eight inches in diameter; 4) the construction of curbs and gutters; 5) permanently surfacing residential streets; 6) the abatement of nuisances and the draining of swamps, marshes, and ponds on public or private property and filling the same.

303.03 Financing Class B and C improvements. It is the policy of the city to finance Class B and C improvements by the methods prescribed in the Sections 304.04, 304.06. The apportionment of the cost between benefited property and the city at large and method of levying assessments prescribed in those circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in Minn. Stat.429.02 and not placed in Class A, B, or C by Section 304.02 shall be financed as the council determines to be most feasible and equitable in each case. In each case the council shall examine the assessment role before approval and adjust any assessments which exceed the benefit received by the property assessed.

303.04. Assessment regulation for Class B improvements.

Subd. 1. Truck water mains and sanitary sewer. When a water or sewer main is laid across or adjacent to unplotted property, the city shall not defer the assessment against the unplotted property, but the city shall make the assessment at the time the assessment against other property is made, apportioning

the assessment against the unplotted property on the basis of area other equitable method. When a trunk sewer or water main is constructed and is to serve also as a lateral sewer or water main for abutting property, the abutting property shall be assessed for the cost of lateral sewer of eight inches or water main of six inches plus its proportionate share of the cost of the excess capacity. Other property benefited by the trunk sewer or water main has been built to serve the property shall not be assessed for its share of the cost of the trunk sewer or water main until the lateral is built. The assessment for the lateral shall then include the property's share of the trunk sewer or water main. The cost of the trunk sewer or water main in excess of the lateral assessment shall be assessed on the basis of area against all properties benefited. The cost of a lift station shall be assessed on the basis of area against that property actually benefited by the lift station.

Subd. 2. Arterial street surfacing. When an arterial street is paved with concrete, bituminous mat, or other permanent surface, the cost of the pavement on a 32-foot roadway shall be assessed for such paving are higher than those the city would use for a residential street, the cost to be assessed shall be based on the cost of paving residential street of the same width. The rest of the cost shall be paid from general funds.

Subd. 3. Storm sewers. The cost of construction storm sewers shall be assessed against the property in the area served by the sewer on the basis of the square footage of the property, or such other basis as the council shall determine to be equitable. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

303.05. Assessment rules for Class C improvements.

Subd. 1. Sidewalks. The cost of the construction of sidewalks shall be assessed on the basis of frontage against property abutting the side of the street on which the sidewalk is located or on such other basis as the council shall determine to be equitable.

Subd. 2. Water and sewer. The cost of lateral water mains not exceeding six inches in diameter and of lateral sanitary sewer mains not exceeding eight inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines if furnished, hydrant, and valves. The cost of sewer main includes lines, if furnished.

Subd. 3. Streets. The cost of construction of curbs and gutters on any street, or of applying permanent surfaces to residential streets shall be assessed on the basis of frontage.

Subd. 4. Nuisances. The cost of abating nuisances and draining of swamps, marshes, and ponds on public or private property and filling the same shall be assessed in a manner determined by the council in each case to measure most equitably the benefit received by property to be assessed. The assessment in any such case may be made against non-abutting property to the extent the property is benefited by the improvement.

303.06. Special rules.

Subd. 1. Corner lots. In any assessment made on the basis of frontage, except one for water or sanitary sewer, corner lots shall be assessed for frontage along the front of the lot plus one-third of the side

footage; the other two-thirds of the side footage shall be spread among all of the assessed properties. In the case of an assessment for a lateral water or sewer main, Class C, corner lots shall be assessed for the footage along the front side of the lot and for the footage along the side of the lot if the lot is large enough to accommodate another building which would be benefited by the construction of the second main.

Subd. 2. Intersections. The cost of improvements in street intersections shall be included as part of the total assessable cost.

Subd. 3. Adjusted frontage. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment:

- a) Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.
- b) Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.
- c) Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, determined on the basis of an irregularly shaped lot.
- d) Where a lot consists of a combination of rectangular and pie-shaped or irregular portion, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

303.07. Federal, state, and county aid use. If the city received financial assistance from the federal government, the state, or the county to defray a portion of the cost of a street improvement project such aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula contained in this ordinance. If such aid is more than the amount to the improvement cost to be borne by the city, the remainder shall be used to reduce each individual assessment proportionately.

303.08. Branch service lines. Water and sewer lines shall be installed from the main to the front property line of property to be serviced before any permanent street surfacing is constructed the street. If any property owners fails to put in such water and sewer service lines within 30 days after notice from the clerk, the city council shall proceed to have water and sewer service installed and to assess the cost against the property.

303.09. Partial prepayment. After the adoption by the city council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment or the first installment to the county auditor, pay to the city treasurer any portion of the assessment not less than \$100.00. The remaining unpaid balance shall be spread over the period of time established by the council for installment payment of the assessment.

303.10. Certification of assessments. After the adoption of any special assessment by the council, the clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor to be extended on the property tax lists of the county.

Other Possible Provisions

303.11. Deferment of the special assessment for senior citizens.

Subd. 1. When deferred. The council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older and has an annual income of \$10,000 or less. The deferment shall be granted upon a certification by the owner on a form prescribed by the county assessor supplemented by the city clerk to establish the qualification of the owner for such deferment. The application shall be made within 30 days after the adoption of the assessment roll by the council and shall be renewed each following year upon the filing of a similar application not later than September 30. The council shall either grant or deny the deferment, and if it grants the deferment, it may require the payment of the interest due each year. If the council grants the deferment, the clerk shall notify the county auditor of that fact.

Subd. 2. When deferment ends. The option to defer the payment of special assessment shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events: 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 there would be no hardship to require immediate or partial payment; or 5) failure to file a renewal application within the time prescribed by Subd. 1.

Subd. 3. Procedure for termination. Upon the occurrence of one of the events specified in Subd. 2, the council shall terminate the deferments. Thereupon, the city clerk shall notify the county assessor and the county auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall become due and payable as a result of the termination.

Miscellaneous

(To be expanded as the item becomes necessary)

1. Replacement credits.
2. Length of assessment.
3. Connection charge in lieu of special assessment.
4. Policy on payment from general fund.
5. Long-range program.
6. Contracts.
7. Current services.
8. Obligation of developers.
9. Exemption of unbuildable lots.

CHAPTER 3: STREET, PARK, AND PUBLIC PROPERTY AND IMPROVEMENT

Part 4. Abandoned Property

- 304.01 Abandoned motor vehicles
- 304.02 Other abandoned property

Part 4. Abandoned Property

304.01. Abandoned motor vehicles

Subd. 1. Impoundment and sale. The city shall take into custody and impound any abandoned motor vehicle as defined by Minn. Stat. 168 B.02, Subd. 2. It shall give notice of the taking as provided by law and if the owner or any lienholder does not reclaim the vehicle within the period provided by law, it shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two weeks' published notice.

Subd. 2. Summary action in certain cases. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale under Subd. 1 and shall not be subject to the notification, reclamation, or title provisions of Minn. Stat. 168B.01 to 168.13.

Subd. 3. Disposition of proceeds. The proceeds of the sale of an abandoned motor vehicle shall be placed in the general fund of the city. If the former owner or entitled lienholder makes application and furnishes satisfactory proof of ownership or lien interest within 90 days of sale, the former owner shall be paid the proceeds of the sale of the vehicle less the cost of towing, publication costs, preserving, and storing the vehicle and all administrative, notice and publication costs incurred in its handling.

304.02. Other abandoned property.

Subd. 1. Procedure. All other property lawfully coming into the possession of the city shall be disposed of as provided in this section.

Subd. 2. Storage. The department of the city acquiring possession of the property shall arrange for its storage. If city facilities for storage are unavailable or inadequate, the department may arrange for storage at privately owned facilities.

Subd. 3. Claim by owner. The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

Subd. 4. Sale. If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the chief of police (mayor) of the city after two week's published notice setting forth the time and place of the sale and the property to be sold.

Subd. 5. Disposition of proceeds. The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the costs of published notice and other costs of the sale.