

Chapter 34 SPECIAL ASSESSMENTS*

***Cross reference(s)**--Community development, ch. 16; planning, ch. 30; streets, sidewalks and other public places, ch. 36.

State law reference(s)--Special assessments for local improvements, M.S.A. § 429.011 et seq.

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ARTICLE I. IN GENERAL

Secs. 34-1--34-30. Reserved.

ARTICLE II. ASSESSABLE CURRENT SERVICES; OBLIGATIONS OF PROPERTY OWNERS AND OCCUPANTS

Sec. 34-31. Purpose.

Cost of current services is collectible as a special assessment at the option of the council under M.S.A. § 429.101, part of the local improvement code. The provisions of this article bring together all the needed regulations with reference to the type of services covered by the code.

Sec. 34-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Current service means one or more of the following:

- (1) Snow, ice or rubbish removal from sidewalks;
- (2) Weed elimination from street grass plots adjacent to sidewalks or from private property;
- (3) Removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S.A. §§ 463.15--463.26;
- (4) Installation or repair of water service lines;
- (5) Street sprinkling, street flushing, light street oiling, or other dust treatment of streets;
- (6) Repair of sidewalks and alleys;
- (7) Trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and
- (8) The operation of a street lighting system.

(Code 1987, § 302.01)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 34-33. Snow, ice, dirt and rubbish.

- (a) *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 12 hours after its deposit on the sidewalk.
- (b) *Removal by city.* The public works superintendent shall remove from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 12 hours after any such matter has been deposited or after the snow has ceased to fall. He shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the administrative clerk-treasurer.

(Code 1987, § 302.02)

Sec. 34-34. Weed elimination.

- (a) *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 12 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.
- (b) *Notice.*
- (1) On or before June 1 of each year and at such other times as ordered by resolution of the council, the administrative clerk-treasurer shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by subsection (a) of this section to be a nuisance and stating that if not so destroyed within ten days after publication of the notice, the weeds will be destroyed by the weed inspector 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.
 - (2) Any such notice to remove weed nuisance shall be given once during any annual growing season from March 1 to October 15 of any year and shall serve as notice for that season in its entirety. Further violation of this section within that season will result in removal by the city according to subsection (c) of this section without further notice.
- (c) *Removal by city.* If the owner or occupant of any property in the city fails to comply with the notice within ten days after its publication, the weed inspector shall cut and remove such weeds. He shall keep a record showing the cost of such work attributable to each separate lot and parcel and shall deliver such information to the administrative clerk-treasurer.

(Code 1987, § 302.03)

Cross reference(s)--Nuisances generally, § 22-31 et seq.

Sec. 34-35. 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 of such removal or elimination against each parcel of property affected and annually deliver such information to the administrative clerk-treasurer. This section does not apply to hazardous buildings under the hazardous building law, M.S.A. §§ 463.15--463.26.

(Code 1987, § 302.04)

Sec. 34-36. Installation and repair of water service lines.

Whenever the city installs or repairs water service lines serving private property under chapter 42 of this Code, the public works superintendent shall keep a record of the total cost of the installation or repair against the property and deliver such information to the administrative clerk-treasurer annually by August 15 as to each parcel of property on which the cost has not been paid.

(Code 1987, § 302.05)

Sec. 34-37. Repair of sidewalks and alleys.

- (a) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the council and on file in the office of the administrative clerk-treasurer.
- (b) *Inspections; notice.* The public works superintendent shall make such inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians and vehicles. If he finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he shall inform the city council, who, in turn, shall cause a notice to be served by registered or certified mail or by personal service upon the record owner of the property and occupant, if the owner does not reside within the city or cannot be found in the city, ordering such owner to have the sidewalk or alley repaired and made safe within 14 days and state that if the owner fails to do so, the city council will order the work done on behalf of the city, that the expense must be paid by the owner, and if not paid it shall be paid by special assessment against the property concerned.
- (c) *Repair by city.* If the sidewalk or alley is not repaired within 14 days after receipt of the notice, the public works superintendent shall report the facts to the council; and the council shall by resolution order the public works superintendent to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with law. The public works superintendent shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the administrative clerk-treasurer.
- (d) *Width of sidewalks.* All sidewalks in a residential zone shall be 4.5 feet in width unless otherwise specified by the city engineer.

(Code 1987, § 302.06)

Sec. 34-38. Street sprinkling, street flushing, tree care.

- (a) *Proposed projects.* The council shall each year determine by resolution what streets and alleys shall be sprinkled or flushed, oiled or given other dust treatment during the year and the kind of work to be done on each. The council shall also determine by resolution the streets on which trees shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. Before any work is done pursuant to either of these resolutions, the administrative clerk-treasurer shall, under the council's direction, publish notice that the council will meet to consider such projects. Such notice shall be published in the official newspaper at least once no less than two weeks prior to such meeting of the council and shall state the date, time and place of such meeting, the streets affected and the particular projects proposed, and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.
- (b) *Hearing; order.*
- (1) At such hearing or at any adjournment of the hearing, the council shall hear property owners with reference to the scope and desirability of the proposed projects. The council shall thereupon adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for the doing of the work by day labor through the public works superintendent or by contract.
 - (2) The public works superintendent shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done and shall report such information to the administrative clerk-treasurer.

(Code 1987, § 302.07)

Sec. 34-39. Street lighting system.

The street lighting system shall be budgeted for annually and shall become part of the annual certified budget levy.

(Code 1987, § 302.08)

Sec. 34-40. Personal liability.

The owner of property on which or adjacent to which 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 cost determined, the administrative clerk-treasurer 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 administrative clerk-treasurer.

(Code 1987, § 302.09)

Sec. 34-41. Assessment.

On or before September 1 of each year, the administrative clerk-treasurer shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this article. The council may then spread the charges against property benefited as a special assessment under M.S.A. § 429.101 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 ten, as the council may determine in each case. These charges shall be those predetermined by the city council not to be charged to general funds.

(Code 1987, § 302.10)

Sec. 34-42. Repair and/or maintenance of public rights-of-way.

- (a) A public right-of-way shall mean any street or alley as platted within the corporate limits of the city. Repair and maintenance shall be established into two categories, (a.) assessable current service and (b.) nonassessable current service.
- (b) An (a.) assessable current service shall be construed to mean repair to a street or alley which consists of removal of either surface and/or base of a public right-of-way to allow for replacement with a new material consistent with the performance criteria of the original material being removed. An (a.) assessable current service shall be assessed in accordance with section 34-41.
- (c) A (b.) nonassessable current service shall be construed as but not limited to seal coating, nonpetitioned overlayment, patching, crack filling, grading and filling. Such service shall be construed as a general obligation of the city.

(Code 1987, § 302.11)

Secs. 34-43--34-75. Reserved.

ARTICLE III. LOCAL IMPROVEMENT POLICY

Sec. 34-76. Cutoff date for petitions.

No petition for construction of streets, storm sewer or public utility expansion shall be accepted or acted upon by the council unless it is filed with the administrative clerk-treasurer on or before September 1 of the year prior to the year of requested construction.

(Code 1987, § 303.01)

Sec. 34-77. Classification of projects.

- (a) *Generally.* Public improvements are divided into the three classes specified in this section according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practice. The city council shall determine the class which shall apply to each improvement.
- (b) *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 elsewhere in this section;
 - (2) Any public park, playground or recreational facility;
 - (3) The installation and maintenance of street lighting systems; and
 - (4) Any improvement not described in M.S.A. § 429.021, subd. 1. Any such improvement shall be financed from general city funds and not from special assessments.
- (c) *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 five inches;
 - (2) Trunk sanitary sewer mains larger than six inches;
 - (3) Permanently surfacing arterial streets;
 - (4) Storm sewers;
 - (5) The construction of off-street parking facilities.
- (d) *Class C.* Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvement, including:
 - (1) The construction of sidewalks;
 - (2) The construction of water mains no larger than three inches in diameter;
 - (3) The construction of sanitary sewer mains no larger than six inches in diameter;
 - (4) The construction of curbs and gutters;

- (5) Grading, graveling, oiling and applying nonpermanent surfacing to streets;
- (6) Permanently surfacing residential streets;
- (7) The abatement of nuisances and the draining and filling of swamps, marshes and ponds on public or private property.

(Code 1987, § 303.02)

Sec. 34-78. 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 sections 34-79, 34-80 and 34-81. The apportionment of the cost between benefited property and the city at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in M.S.A. § 429.02 and not placed in class A, B, or C by section 34-77 shall be financed as the council determines to be most feasible and equitable in each case.

(Code 1987, § 303.03)

Sec. 34-79. Assessment regulations for class B improvements.

(a) *Trunk water mains and sanitary sewers.*

- (1) When a water or sewer main is laid across or adjacent to unplatted property, the city shall not defer the assessment that would be made for such an improvement in the case of platted property; but the city shall make the assessment at the time the assessment against other property is made, apportioning the assessment against the unplatted property on the basis of area.
- (2) 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 a lateral sewer 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 but unable to utilize it until a lateral connected to 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 on the basis of lineal foot and/or frontage shall be assessed against all properties benefited. The cost of a lift station shall be assessed on the basis of lineal

foot and/or frontage against that property actually benefited by the lift station or on a basis subject to council discretion.

- (b) *Arterial street surfacing.* Arterial streets are determined by the city council upon recommendations of the city engineer. When an arterial street is paved with concrete, bituminous mat or other permanent surface, the cost of the pavement on a 36-foot roadway shall be assessed against the benefited property on the basis of frontage on the abutting street. When the standards for such paving are higher than those the city would use for a residential street, the cost shall be the cost of paving a residential street of the same width. The rest of the cost shall be paid from general funds.
- (c) *Storm sewers.* The city council shall ascertain the percentage of the cost of constructing storm sewers that shall be paid by the city from general funds. The remainder of the cost shall be assessed against the property in the area served by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

(Code 1987, § 303.04)

Sec. 34-80. Assessment rules for class C improvements.

- (a) *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.
- (b) *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, hydrants and valves. The cost of sewer mains includes lines if furnished.
- (c) *Streets.* The cost of construction of curbs and gutters on any street, of grading, oiling and applying nonpermanent surfaces to residential streets shall be assessed on the basis of frontage.
- (d) *Nuisances.* The cost of abating nuisances and the draining and filling of swamps, marshes and ponds on public or private property 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 nonabutting property to the extent the property is benefited by the improvement.

(Code 1987, § 303.05)

Sec. 34-81. Special rules.

- (a) *Corner lots.* In any assessment made on the basis of frontage, except one for water or sanitary sewer, corner lots shall be assessed for footage along the front of the lot plus half of the side footage; the other half of the side footage shall be spread among all other 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 shall be assessed for the footage along the front side of the street abutting the lot unless the lot is large enough to accommodate another building which would be benefited by construction of the second main.
- (b) *Intersections.* The cost of water and sewer improvements in street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement, intersection costs shall be paid by the city.
- (c) *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: All such property shall be dealt with consistently in a manner to be prescribed by the city council, dealing with each improvement project separately.

(Code 1987, § 303.06)

Sec. 34-82. Federal, state and county aid use.

If the city receives 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 article. If such aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

(Code 1987, § 303.07)

Sec. 34-83. Procedural restrictions.

- (a) *Generally.* In addition to conforming to the provisions of M.S.A. § 429.011 et seq., proceedings for a public improvement to be paid wholly or partly by special assessments shall conform to the requirements of this section.
- (b) *Waivers.* When the estimated cost of an improvement is determined and the council has determined what percentage of the estimated project cost can be collected by special assessments, the improvement contract shall not be entered into or the work shall not be commenced by day labor unless all property owners

subject to the assessment have signed and submitted to the administrative clerk-treasurer waivers of the right to appeal from the assessment when levied.

- (c) *Conditional contracts.* When the estimated cost of an improvement is determined and the council has determined what percentage of the estimated project cost can be collected by special assessments, the contract for the improvement shall provide that no work shall be undertaken pursuant to the contract until 30 days after the hearing on the proposed assessment. The contract shall also provide that if any objection to the proposed assessment is filed within such 30-day period, the contract shall be void.
- (d) *Findings on market value increase.* Before determining proposed special assessments on any project, the city shall gather as much evidence as is practical and useful to show that the aggregate benefits to property to be assessed do not exceed the cost of the project and that each proposed individual assessment does not exceed the increase in market value on the property on which the assessment is to be made.

(Code 1987, § 303.08)

Sec. 34-84. Deferment of special assessments for senior citizens.

- (a) *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 state prescribed poverty level or less. The deferment shall be granted upon a certification by the owner on a form prescribed by the county assessor supplemented by the administrative clerk-treasurer 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 administrative clerk-treasurer shall notify the county auditor of that fact.
- (b) *When deferment ends.* 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 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;
 - (5) Failure to file a renewal application within the time prescribed by subsection (a) of this section; or
 - (6) Having reached a five-year limitation on any deferments.
- (c) *Procedure for termination.* Upon the occurrence of one of the events specified in subsection (b) of this section, the council shall terminate the deferment. Thereupon, the administrative clerk-treasurer 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.

(Code 1987, § 303.09)

Sec. 34-85. Branch service lines.

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

(Code 1987, § 303.10)

Sec. 34-86. 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 administrative clerk-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.

(Code 1987, § 303.11)

Sec. 34-87. Certification of assessments.

After the adoption of any special assessment by the council, the administrative clerk-treasurer 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 proper tax lists of the county.

(Code 1987, § 303.12)

Sec. 34-88. Permanent improvement revolving fund.

- (a) *Establishment.* There is established a permanent improvement revolving fund of the city to be held and administered by the administrative clerk-treasurer, separate and apart from all other funds of the city, for the purpose of financing local improvements.
- (b) *Source of funds.* The fund shall be a permanent fund of the city, and the moneys necessary for its maintenance shall be provided by taxation by the appropriation of available moneys from other funds of the city and/or by the issuance and sale of permanent improvement revolving fund bonds of the city as deemed necessary by the council.
- (c) *Disposition of funds.* Moneys in the fund shall be used only as directed by resolution of the council for the purpose of advancing to local improvements funds the cost of improvements for which assessments are to be levied. All such moneys so advanced to an improvement fund shall be restored as soon as sufficient moneys are received in the improvement fund, together with interest at a rate fixed by the council at not less than eight percent per annum during the time for which such moneys have been so furnished.
- (d) *Investment.* Whenever there are moneys in the fund not immediately needed for local improvements, such moneys shall be invested by the administrative clerk-treasurer under the direction of the council in any securities authorized for investment of municipal sinking funds by law.
- (e) *Transfer of surplus.* When the fund accumulates encumbered moneys in excess of any amounts reasonably anticipated to be needed for local improvement fund advances, the council may, by resolution adopted by a three-fourths vote, declare any part of such excess to be surplus and transfer it to the general fund.

(Code 1987, § 303.13)

Sec. 34-89. Assessment manual.

The administrative clerk-treasurer shall prepare an administrative manual specifying more detailed procedures for the conduct of local improvements and levy of special assessments in supplementation of this article and consistent with this article. Upon approval of the council by resolution, such manual shall be used with this article in the conduct of all local improvement proceedings to which they apply by their terms.

(Code 1987, § 303.14)