

CHAPTER 14

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CHAPTER 14

LOCAL IMPROVEMENTS, SPECIAL ASSESSMENTS - FINANCING; TAXING DISTRICTS

SECTION 14.01. PETITIONS FOR PUBLIC IMPROVEMENTS. Petitions for construction of curb and gutter, bituminous surfacing, base course, grading or graveling of streets, water main and sanitary sewers should be filed with the City Clerk on or before September 1 of the year prior to construction to allow the project to be bid, built, and assessed in a single construction season. Petitions for public improvements received after September 1, may delay the commencement or completion of the project until the following year.

SECTION 14.02. CLASSIFICATION OF PROJECTS. Public improvements are divided into three classes specified in the following Subdivisions according to their respective benefit to the whole City and to property specially served by the improvement and taking into account past City practice.

Subd. 1. 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; (4) water wells, pumps, reservoirs, tanks, water treatment facilities; (5) sidewalks, bike trails, hiking trails; (6) street seal coating, sewer cleaning, water main flushing and other periodic maintenance; and, (7) any improvement not described in Minnesota Statutes, Section 429.021, Subdivision 1. Any such improvement shall be financed from City funds other than special assessments.

Subd. 2. 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:

- A. Trunk water mains larger than eight inches;
- B. Trunk sanitary sewer mains larger than nine inches;
- C. Storm sewers;
- D. The construction of off-street parking facilities.

Subd. 3. 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 water mains no larger than eight inches in diameter; (2) the construction of sanitary sewer mains no larger than nine inches in diameter; (3) the construction of curbs and gutters; (4) grading, graveling, and applying non-permanent surfacing to streets; (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.

SECTION 14.03. 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 Sections 14.04, 14.05 and 14.06. 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 Minnesota Statutes, Section 429.02 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 roll before approval and adjust any assessment which exceeds the benefit received by the property assessed.

SECTION 14.04. ASSESSMENT REGULATIONS FOR CLASS B IMPROVEMENTS.

Subd. 1. Trunk Water Mains and Sanitary Sewers. When a water or sewer main is laid across or adjacent to unplatted property, the City shall not defer the assessment against the unplatted property if the assessment would be made for such an improvement in the ease 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 weighted area. 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 eight 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 of the lateral assessment shall be assessed on the basis of weighted area against all properties benefited. The cost of a lift station shall be assessed on the basis of weighted area against that property actually benefited by the lift station.

Subd. 2. Storm Sewers. The Council shall determine a percentage of the cost of constructing storm sewers which 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 weighted area. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

Subd. 3. Off-Street Parking Facilities. The cost of the construction of off-street parking facilities shall be assessed on the basis of frontage against property benefiting from the parking facility.

SECTION 14.05. ASSESSMENT RULES FOR CLASS C IMPROVEMENTS.

Subd. 1. Water and Sewer. The cost of lateral water mains not exceeding eight inches in diameter and of lateral sanitary sewer mains not exceeding nine (9) inches in diameter shall be assessed thirty percent (30%) of project costs against abutting property. The remaining seventy percent (70%) of the project costs shall be paid from general funds. The copy of water mains to the assessed includes the service lines, hydrants, and valves. The cost of sewer mains includes service lines.

Subd. 2. Concrete Curb and Gutters and Street Construction. The cost of construction of curbs and gutters on any street shall be assessed thirty percent (30%) of project costs against the benefited property. The remaining seventy percent (70%) of the project costs shall be paid from general funds.

Subd. 3. Streets. When a street is paved with concrete, bituminous mat, or other permanent surface, the cost of the pavement shall be assessed against the benefited property on the basis of frontage on the street abutting the improvement. When the standards for such paving are higher than those the City would use for a residential street, or a commercial street when constructed in a commercial area, the cost to be assessed shall be based on the cost of paving a residential or commercial street of the same width. The rest of the cost shall be paid from general funds. The cost of grading, graveling and applying non-permanent surfacing to any street, or 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 against the benefitting property for thirty percent (30%) of the project costs. The remaining seventy percent (70%) of the project costs shall be paid from general funds. An assessment in any such case may be made against non-abutting property to the extent the property is benefited by the improvement.

SECTION 14.06. 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 footage 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 other assessed properties.

Subd. 2. Intersections. The cost of water and sewer 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 the setback line on cul-de-sac 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 on 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 portions, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

SECTION 14.07. 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 an 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 Chapter. 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 may be used to reduce each individual assessment proportionately.

SECTION 14.08. DEFERMENT OF SPECIAL ASSESSMENTS FOR SENIOR CITIZENS.

Subd. 1. Procedures. 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 when payment of the assessment would create a hardship upon the property owner as defined in Subdivision 2. The deferment shall be granted upon a certification by the owner on a form prescribed by the County Auditor supplemented by the Clerk to establish the qualification of the owner for such deferment. The application shall be made within thirty (30) days after the adoption of the assessment roll by the Council and shall be renewed three years after the initial application but not later than September 30 of the third year. 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 who shall, in accordance with Minnesota Statutes, Section 435.194, record a notice of the deferment with the County Recorder setting forth the amount of the assessment.

Subd. 2. Standards of Hardship.

- A. A hardship shall be deemed prima facie to exist when the following apply: The annual gross income of the applicant according to his/her most recent Federal income tax return plus his/her tax-exempt income does not exceed 125 percent (125%) of the latest median income as determined by the U.S. Department of

Housing and Urban Development according to family size. If no such return was made, the Clerk shall require the applicant to submit other pertinent information to show that this qualification is met.

- B. Notwithstanding the foregoing provisions of this Subdivision, the Council may consider exceptional and unusual circumstances pertaining to an applicant not covered by the above standards; but any determination shall be made in a nondiscriminatory manner and shall not give the applicant an unreasonable preference or advantage over other applicants.

Subd. 3. Events That Terminate Deferment. 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; or (5) failure to file a renewal application within the time prescribed by Subdivision 1.

Subd. 4. Council Action - Termination of Deferment. Upon the occurrence of one of the events specified in Subdivision 3, the Council shall terminate the deferment. Thereupon, the 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 be spread over the time remaining on the original assessment.

SECTION 14.09. 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. The Council shall proceed to have water and sewer service installed and to assess the cost against the property.

SECTION 14.10. PARTIAL PREPAYMENT. After the adoption by the Council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to certification of the assessment or the first installment to the County Auditor, pay to the Clerk any portion of the assessment not less than ten percent (10%) of the initial total principal amount. The remaining unpaid balance shall be spread over the period of time established by the Council for installment payment of the assessment.

SECTION 14.11. CERTIFICATION OF ASSESSMENTS. After the adoption of any special assessments 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.

SECTION 14.12. PERMANENT IMPROVEMENT REVOLVING FUND.

Subd. 1. Establishment. There is hereby established a permanent improvement revolving fund of the City to be held and administered by the Clerk, separate and apart from all other funds of the City, for the purpose of financing local improvements.

Subd. 2. 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 from time to time by the Council.

Subd. 3. 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 improvement 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.

Subd. 4. Investment. Whenever there are moneys in the fund not immediately needed for local improvements, such moneys shall be invested by the Clerk under the direction of the Council in any securities authorized for investment of municipal debt service funds by law.

Subd. 5. Transfer of Surplus. When the fund accumulates moneys in excess of any amounts reasonably anticipated to be needed for local improvement fund advances, the Council may, by resolution adopted by a four-fifths vote, declare any part of such excess to be surplus and transfer it to the general fund.

SECTION 14.13. ASSESSMENT MANUAL. The Clerk shall prepare an administrative manual specifying more detailed procedures for the conduct of local improvements and the levy of special assessments in supplementation of this Chapter and consistent therewith. Upon approval of the Council by resolution, such manual shall be used with this Chapter in the conduct of all local improvement proceedings to which they apply by their terms.

SECTION 14.14. STORM SEWER IMPROVEMENT TAX DISTRICT.

Subd. 1. Provisions. The provisions of Minnesota Statutes, Chapter 444, relating to Storm Sewer Improvement Tax Districts and procedures of Minnesota Statutes 429.031 to 429.081 as referenced in M.S. 444, are adopted and made a part of this ordinance as if set out in full.

Subd. 2. Establishment. The City of Lexington Storm Sewer Improvement Tax District is hereby established and its area shall include all of the corporate limits of the City of Lexington as recorded in the office of the County Auditor.

Subd. 3. Purpose. The purpose of the Storm Sewer Improvement Tax District shall be to finance through a tax the cost of acquisition, construction, reconstruction, extension, maintenance, and other improvements to storm sewer systems and related facilities within the district as prescribed in Minnesota Statutes 444.16 to 444.21.

SECTIONS 14.15 THROUGH 14.98, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 14.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.