

PUBLIC WORKS AND UTILITIES COMMITTEE

08-064-O

ORDINANCE NO. _____

AN ORDINANCE CREATING A STREET LIGHTING SYSTEM UTILITY AND AUTHORIZING CHARGES THEREFOR, ADDING A NEW ARTICLE XI TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Chapter 45 of the Duluth City Code 1959, as amended, is hereby amended by adding a new Article XI thereto which reads as follows:

Article XI. Street Lighting System Utility.

Sec. 45-106. Policy and purpose.

The city council has determined that, to promote the general health, safety and welfare of the citizens and residents of the city, it is in the best interests of said citizens and residents that the city operate and maintain a city-wide street lighting system utility and further has determined that the operation and maintenance of such a utility benefits each and every property within the city. The city council has therefore determined that it is fair, appropriate and reasonable that the costs of such operation and maintenance be paid on a fair and reasonable basis by all of the property in the city so benefitted and that cost thereof should be charged to and collected from all such benefitted property.

Sec. 45-107. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Director. The director of public works or the director's designee.

Dwelling unit. A single unit that provides complete, independent living facilities for one or more persons including

permanent provision for living, sleeping, eating, cooking and sanitation.

Operating and maintenance costs. The current paid or accrued expenses of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for current operations and charges for the accumulation of appropriate reserves for current expenses not annually incurred but which are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Nonresidential property. All property other than residential property.

Residential property. Developed property that is classified by the city assessor as land use Types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Street lighting system or system. The existing system of street lights and signalized intersection systems and related wires and equipment owned or maintained by the city and all improvements thereto which are the property and responsibility of the utility, to be operated by the utility to provide lighting on public streets.

Street lighting utility or utility. The utility created by this article to operate, maintain and improve the street lighting system.

Utility fee. A utility fee authorized this Article which is established to pay for operations and maintenance, extension and replacement and debt service.

Sec. 45-108. Utility fees and charges.

(a) The utility shall charge utility fees established from time to time by the council by resolution to recover from property benefitting from the system the debt service, operation and maintenance costs of street lighting system facilities in the city. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth. The council may establish differing rates for residential property and non-residential property based on its determination of the reasonable benefits accruing to each such classification of property;

(b) The fees charged under this Article shall be charged along with and in the same manner as stormwater utility fees pursuant to Article XI of Chapter 43 of this Code. The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each lot or parcel subject to the fee. The city council may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

(c) In the event that any utility fees under this Article are not paid when due, the payment thereof may be enforced in the same manner as any other unpaid utility fee owed to the city including those owed with regard to water, gas or sewer service, which enforcement may include but shall not be limited to the right to discontinue any or all such water, gas or sewer service being provided to the benefitted property;

(d) In addition, delinquent utility fees shall be collected in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the

director shall transmit to the city assessor a list of all delinquent street lighting system utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each lot or parcel where utility fees are delinquent, a description of each lot or parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year, the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a ten percent penalty added, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of the City Charter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

Approved:

Approved for presentation to council:

Department Director

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

PWU/ATTY JB/REA:blj 8/15/2008

STATEMENT OF PURPOSE: This ordinance is to create a street lighting system utility, including signalized intersection systems, to fund the operating and maintenance costs of providing street lighting throughout the city. The system is similar to the city's existing stormwater utility and is authorized under Minnesota Statutes Section 429.101.

The council will establish the utility fee to be charged by resolution.

For additional information, see the memorandum from Jim Benning, director of public works and utilities attached to the hard copy of this ordinance.