

PUBLIC WORKS AND UTILITIES COMMITTEE

10-046-0

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING ASSESSMENT FOR SIDEWALK VAULT
REPAIR OR ABANDONMENT.

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 the addition of a new Section 45-82.6 which reads as follows:

Sec. 45-82.6. Sidewalk vault repair or abandonment--assessment.

(a) If the city engineer determines in the exercise of his or her discretion that the existence or condition of a vault under any city street, sidewalk or alley is in such a condition or state of disrepair as to pose a danger to the public or that it imperils the condition or integrity of such street, sidewalk or alley, the city engineer may cause a notice thereof to be mailed to those persons appearing by name in the office of the city assessor as being subject to a real estate tax on the property upon which the vault is located, or if such property is not subject to a real estate tax, the owner of such property as shown in the office of the city assessor, such notice to be mailed to the address of such person as listed on the records of the assessor. Said notice shall inform said person or persons of the determination of the city engineer, shall notify said person or persons that the city requires said person or persons, within 60 days of the sending of the notice, to either repair said vault in a manner acceptable to the city engineer or to abandon, close and fill said vault in a manner acceptable to the city engineer. Said person or persons shall be required to obtain a permit from the city engineer for any such repair or abandonment work and to provide bonds and insurance as is required in this Chapter and the plans therefore shall be subject to the prior approval of the city engineer;

(b) If the vault referenced in subsection (a) above is not repaired or abandoned in accordance with the requirements of said subsection within the time established in the notice requiring such repair or abandonment, the city engineer may proceed to seek authorization from the city council under Section 45-77.1 of this Code to have said work performed and to assess the cost of said work against the benefitted property pursuant to this Article VII of Chapter 45 of the Code.

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

Approved:

Department Director

Approved as to form:

Attorney

PW&U/ATTY REA:dma 8/31/2010

Approved for presentation to council:

Chief Administrative Officer

Approved:

Auditor

STATEMENT OF PURPOSE: The purpose of this ordinance is to allow the city engineer to require either the repair or abandonment of private vaults existing under city streets, sidewalks and alleys and to allow the city to assess for the work if the owner of the affected vault chooses not to perform the work.

Historically, the city authorized a substantial number of vaults to be constructed under city streets, sidewalks and alleys (usually under sidewalks) pursuant to agreements whereby the then-owners of the property agreed to remove them at their own expense if the city ever determined that it was necessary to do so. Over time, many of these vaults have fallen into substantial disrepair and many more are not even used by the property owners. And the vaults themselves often negatively affect the integrity of the public facilities under which they are built and even, in some cases, become a "hang out" or an unauthorized housing facility, giving rise to policing problems.

However, there is no method of requiring that owners repair or abandon them without going to court. For their part, owners are sometimes reluctant to repair or abandon them because of the cost of the work.

This ordinance would address these problems by allowing the city engineer to require the owners to live up to the original agreement with the city and to repair or abandon these vault spaces at their cost. But if they failed to do so or chose not to do so, the city could, with council approval, cause the work to be done and assess the cost against the benefitted property.