

FINANCE COMMITTEE

12-001-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING ESTABLISHMENT OF FEES AND FINES BY RESOLUTION, AMENDING SECTIONS 31-1 AND 31-6 AND ADDING A NEW SECTION 31-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 31-1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 31-1. Applicability of chapter.

(a) All licenses and permits required by the provisions of this Code and all fees, fines and penalties authorized by the provisions of this Code except where otherwise specifically set out in this Code, shall be issued in accordance with the provisions of this Chapter;

(b) This Chapter shall be deemed to be administrative in effect and shall not be construed to increase, decrease or modify any power of the city found in any other Chapter of this Code with respect to the issuance, suspension or revocation of licenses and permits.

Section 2. That Section 31-6 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 31-6. Fees for issuance of license.

(a) The fees for all licenses and permits issued pursuant to this Code shall be set by city council resolution and shall be based on the city's cost of regulating the activity for which the license or permit is issued. At least annually, on or before December 20th~~biannually~~, the city council ~~or appropriate committee of the city council shall conduct a hearing to~~ consider the adjustment of all license fees to reflect changes in administrative and enforcement costs in accordance with appropriate economic indicators

as determined by the city council ~~or committee~~. ~~Each year, on or before November 1, the clerk shall prepare and present to the council a resolution setting out recommended changes in the amount to be charged for the fees.~~ Changed fees shall be calculated by changing the existing fee in the same proportion as the proportional change in the implicit price deflator for gross domestic product, government consumption expenditures and gross investment, state and local, during the 12 months prior to August 1 of the previous year. The implicit price deflators for gross domestic product, government expenditures, state and local, is produced and published by the U.S. department of commerce, bureau of economic analysis, or its successor. The following are excepted from the application of the implicit price deflator:

- (1) A rate increase that would amount to less than \$1;
- (2) Fees that are tied to another index, such as uniform building codes, a state index or federal law;
- (3) Fees for events, attractions or recreation opportunities (for example, golf rates are adjusted annually based on business goals, rates of surrounding courses or other factors. Additionally, these rates are reviewed and approved by boards and commissions before they go to the city council);
- (4) Fees and charges associated with the public utilities;
- (5) Any other fee that the council elects to determine by a different method.

The fee amount for the excepted fees shall be determined by the council by ordinance or resolution as provided for.

The city clerk shall maintain copies of a schedule of current city license fees for distribution to the general public and shall, if feasible, maintain a schedule of city license fees on the

internet for public inspection;

(b) If the license is not issued for any reason, the clerk shall refund license fees collected except the police investigation fee authorized in Subsection (c) below;

(c) The police department shall charge a fee, which shall be set in accordance with Section 31-6(a) of this Code, for performing a background investigation of any applicant for a license authorized by this Code or a state statute, except where such a fee is prohibited by law. The fee may be collected by either the police department or the city clerk.

Section 3. That Chapter 31 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 31-8 which reads as follows:

Sec. 31-8. Other fees, fines and penalties.

(a) The amount of all other fees and of all fines and penalties authorized under the Charter or this Code, except as otherwise specifically provided for, shall also be set by city council resolution. At least annually, on or before December 20<sup>th</sup>, the city council shall consider the adjustment of all such fees, fines and penalties to reflect changes in the city's administrative and enforcement costs in accordance with appropriate economic indicators and to promote compliance with the requirements of the Code, all as deemed most appropriate by the city council. Unless other changes to any fees, fines or penalties are determined by the council to be appropriate to a specific fee, fine or penalty amount, changes to such fees, fines and penalties shall be calculated by changing the existing fee, fine or penalty in the same proportion as the proportional change in the implicit price deflator as described in Section 31-6 above. The following are excepted from the application of the implicit price deflator:

- (1) A rate increase that would amount to less than \$1;
- (2) Fees that are tied to another state index or federal law;
- (3) Fees and charges associated with the public utilities;
- (4) Any other fee, fine or penalty that the council elects to determine by a different method;

(b) The fee amount for the excepted fees, fine and penalties shall be determined by the council by ordinance or resolution as provided for;

(c) The city clerk shall maintain copies of a schedule of current city fees, fines and penalties for distribution to the general public and shall, if feasible, maintain a schedule of such fees, fines and penalties on the internet for public inspection.

Section 4. This ordinance shall take effect 30 days from and after its passage and publication.

Approved:

  
Department Director

Approved for presentation to council:

  
Chief Administrative Officer

Approved as to form:

  
Attorney

Approved:

  
Auditor

FINANCE/ATTY REA:dma 12/13/2011

STATEMENT OF PURPOSE: The purpose of this ordinance is to formally authorize the establishing and changing of the amount of various fees, fines and penalties authorized under the City Code by resolution.

For some time, Chapter 31 of the Code and Section 31-6 has allowed the City to establish and change the amount it charges for fees for licenses and permits by resolution. Almost all of the these charges are wrapped into a single resolution which gets reviewed each year and is updated. If no other changes are deemed necessary, it calls for the addition of an annual inflation factor to these fees to make sure that the amount the City is charging for licenses and permits is not allowed to lag too far behind inflation. It also means that any changes that are appropriate can be affected by resolution rather than having to pass an ordinance amendment each year to update the cost of each license and permit.

However, this process is limited to the fees for licenses and permits. The City has many other services for which it charges a fee and also has a number of provisions establishing a fine or penalty for failure to conform to City ordinances. Examples would include fee to appeal a lateral line repair/replacement order, the fine for allowing polluted water to enter the sanitary sewer system and violation of the FOG (fat, oil and grease) ordinance. To change the amount to be paid under these ordinances requires an ordinance amendment.

The primary purpose of this amendment is to allow such fees, fines and penalties to be established and amended by resolution in the same manner as the fees for licenses and permits have long been addressed under Section 31-6 of the Code. The ordinance also includes some procedural adjustments to the provisions of Section 31-6 to reflect the manner in which the City Council currently operates under that Section.