

406. User Charge for Excessive Consumption of Law Enforcement Services

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406.01. Purposes.

It is the intent of the city council by the adoption of this chapter to impose on and collect from the owner of a property the city cost for law enforcement services which are over and above the cost of providing normal law enforcement services and police protection city-wide, if the said excess costs are spent to abate a nuisance which has occurred, or is maintained and permitted, on the property. The collection of the costs for such excess law enforcement services shall be by assessment against the property on which the nuisance, or activity constituting the nuisance, occurs, pursuant to the authority in Chapter 619 of the city code empowering the council to abate nuisances and collect the costs of such abatement by special assessment. Nothing herein shall prevent the city from using the authority and procedures in any other provision of the code, city ordinance or statute, including but not limited to Minnesota Statutes, section 429.111.

406.02. Definitions.

For the purpose of this ordinance, the terms defined in this section shall have the meanings ascribed to them:

Building. "Building" means a structure suitable for human shelter, any portion of the structure, or the real property on which the structure is located.

Excessive law enforcement and nuisance enforcement services. Excessive law enforcement and nuisance enforcement services means those services provided at a specific property address after three (3) or more verified incidents of separate nuisance events had occurred in a prior year time period, where the owner was notified in writing that subsequent nuisance incidents would result in a fee being charged for excessive consumption of those services, and where the owner had been provided with thirty (30) days following notice of nuisance incidents to abate the nuisance.

Interested party. "Interested party" means any known lessee or tenant of a building or affected portion of a building; any known agent of an owner, lessee, or tenant; any known person holding an unrecorded contract for deed, being a mortgagee or vendee in physical possession of the building; or any other person who maintains or permits a nuisance and is known to the city. Last known address shall be the address shown on the records of the Washington County Department of property taxation or a more recent address known to the sheriff's department. In the case of parties not listed in these records, the last known address shall be that address obtained by the sheriff's department after a reasonable search. If no address can be found, such address shall be that of the building in which the nuisance occurred, or was maintained or permitted.

Nuisance. Nuisance means one or more of the following behavioral incidents occurring or committed within a building:

- (1) Prostitution or prostitution-related activity committed within the building;
- (2) Gambling or gambling-related activity committed within the building;
- (3) Maintaining a public nuisance in violation of Minnesota Statutes, section 609.74, clause (1) or (3);
- (4) Permitting a public nuisance in violation of Minnesota Statutes, section 609.745;
- (5) Unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;
- (6) Unlicensed sales of alcoholic beverages committed within the building in violation of Minnesota Statutes, section 340A.401;
- (7) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of Minnesota Statutes, section 340A.503, subdivision 2, clause (1), or unlawful consumption or possession within the building by persons under the age of 21 years in violation of Minnesota Statute, Section 340A.503, subdivisions 1 and 3;
- (8) Unlawful use or possession of a firearm in violation of Minnesota Statutes, section 609.66, subdivision 1a, 609.67, or 624.713, committed within the building;
- (9) Violation by a commercial enterprise of local or state business licensing regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as defined in Minnesota Statutes, section 609.74 or the control of a public nuisance as defined in Minnesota Statutes, section 609.745;
- (10) Actions which constitute a violation of Minnesota Statutes, section 609.72, relating to disorderly conduct; or
- (11) Actions which constitute a violation of chapter 616 of the City Code relating to noise regulations.
- (12) Actions which constitute a public nuisance under local, state, or federal laws.

Owner: "Owner" means the person or persons in whose name or names the building is recorded with the Washington County Department of Property Taxation for taxation purposes.

Personal service: Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

406.03. Notice of nuisance.

(a) If the Sheriff or his or her designee has reason to believe that a nuisance has occurred, or is maintained or permitted in a building, or on a property, and intends to seek reimbursement for law enforcement services rendered in the future in connection with such nuisance or activities creating a nuisance, he or she shall provide a written notice as required in this section to the owner and each interested party known to him or her.

(b) The written notice shall:

(1) State that a nuisance as defined in this chapter has occurred, or is maintained or permitted in the building, and specify the kind or kinds of nuisance which has occurred, or is being maintained or permitted;

(2) Summarize the evidence that a nuisance has occurred, or is maintained or permitted in the building, including the date or dates on which nuisance-related activities have

occurred or were maintained or permitted, provided, however, that one or more Sheriff's reports can be used to satisfy this requirement; and

(3) Inform the recipient of the notice that (i) he or she has thirty (30) days to abate the conduct constituting the nuisance, and to take steps to make sure that actions constituting a nuisance will not re-occur, (ii) if, after thirty (30) days from the date of service of the notice, the nuisance re-occurs, or actions or conduct constituting a nuisance take place, the city may in its discretion impose the costs of law enforcement services in abating or attempting to abate such nuisance or nuisance-related activities, and (iii) the costs will be collected by assessment against the building as defined.

(c) The written notice shall be served by personal service, or by first class mail on the owner and all interested parties known to the chief or his or her designee, at the last known address for each such person or persons.

406.04. Subsequent nuisance or nuisance-related activity; liability.

(a) If, within the period commencing thirty-one (31) days after a written notice is served pursuant to this chapter and continuing for one (1) year thereafter, a nuisance occurs or is maintained or permitted in the building, and law enforcement services are rendered to abate or attempt to abate such nuisance, the costs of providing such law enforcement services within the said one year shall be assessed against the building and collected as provided in this chapter.

(b) The costs for providing excess law enforcement services shall include but not be limited to \$100 for the first incident, \$200 for the second incident and \$300 for each excessive use of services incident thereafter, the prorata cost of all equipment including vehicles, the prorata cost of Sheriff's dogs assisting the officers, the cost of repairs to any equipment and property damaged in responding to such nuisance or nuisance-related activities, and the cost of any medical treatment of injured law enforcement officers.

(c) The city reserves its rights to seek reimbursement for costs and damages not recovered by assessment against the building through other legal remedies or procedures.

(d) Nothing in this ordinance shall be construed to require or prevent the arrest and/or citation of any person or persons for violations of federal, state or local laws or ordinances.

406.05. Cost of law enforcement services; annual assessment procedures.

(a) The sheriff's department shall maintain a record of each law enforcement visit in response to nuisance activities. The cost of providing such services includes, but is not limited to, the prorata cost of all materials and equipment including vehicles, the cost of repairs to any city equipment and property damaged in responding to such nuisance activities, and the cost of any medical treatment of any injured law enforcement officers. These costs shall be recalculated from time to time. In addition to maintaining a record of each law enforcement visit, the department shall maintain a record on individual properties of law enforcement services attributable to nuisances occurring after written notice has been sent to the owner and interested persons. The sheriff shall report such information to the city clerk or his or her designee.

(b) Resolution approving total, setting date of public hearing. On or before October 1 of each year, the city clerk or his or her designee shall notify the city council of the total cost of such excessive law enforcement services performed during the previous year and the portion of such costs to be assessed against each lot and parcel of property that utilized excessive law enforcement services in response to nuisance activity. Upon receipt thereof, the council shall by resolution fix a date for public hearing at which time the council shall consider adopting and levying the service charges. The date of public hearing shall be at least twenty (20) days after adoption of said resolution.

(c) Notice of council hearing. Following the adoption of the resolution provided in paragraph (b) above, the city clerk shall publish a notice of the hearing in a daily newspaper of the city at least five (5) days prior to the public hearing. The notice shall state the date, time and place of hearing, the purpose of the hearing, identify the services provided and the property to be assessed a service charge therefor, and shall state the proposed rates of service charges to be considered by the council.

(d) Notice to owner and interested parties. At least ten (10) days before the hearing, notice thereof shall be mailed by first class mail to the owner and any interested party known to the city, at his or her last known address. Such notice shall also inform the recipient of the notice (i) of the procedures he or she must follow under the code in order to appeal the assessments to the district court, and (ii) of the provisions of Minnesota Statutes, sections 435.193 to 435.195 and the existence of any deferment procedure established pursuant thereto.

(e) Public hearing; adoption of assessment roll. On the date of public hearing the council shall meet to consider the adoption of the proposed service charges. The council shall hear all interested parties concerning the proposed charges. At such meeting or at any adjournment thereof, the council may amend the proposed service charges, and shall, by resolution, adopt the service charges as a special assessment against the properties which utilized excessive law enforcement services in response to nuisance activities. Special assessments levied hereunder shall be payable in a single installment.

(f) Certification to county for collection with taxes. After adoption by resolution of the service charges and assessment rates therefor, and no later than November 15, the city clerk shall transmit a certified copy of said resolution to the county department of property taxation to be extended on the proper tax list of the county and collected the following year along with current taxes.

(g) Appeal. Within twenty (20) days after adoption of the resolution adopting the service charges, any person aggrieved may appeal to the district court in the manner set forth in Chapter 14 of the City Charter.

406.06 Reserved.