

TITLE XVI: MISCELLANEOUS POLICIES

Chapter
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CHAPTER 170: MISC POLICIES

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§ 170.01 POLICY FOR ADVERTISING ON THE MARQUEE

(A) The following may be allowed to be advertised on the Marquee in a FIRST COME FIRST SERVED manner. Final approval is with the City Clerk/Administrator and Public Works Director:

- (1) City Meetings (Council, Parks Board, EDA, Planning Commission etc . . .)
- (2) Community Events sponsored by a council appointed commission (Parks Board, EDA, Planning Commission etc . . .)
- (3) Community Events sponsored by an official civic organization (Lions Club, Chamber of Commerce, Avon Area Arts Committee, Avon Community Improvement Committee)
- (4) Community Events sponsored by the Avon/Albany School District (possibly including the PTA) However, NO individual sports participants will be recognized for their efforts or achievements. A team may be recognized as a whole, but only if there is nothing of higher priority on the Marquee. This determination will be made at the final discretion of the Clerk/Administrator and the Public Works Director.
- (5) City related items that the City of Avon places on the Marquee will ALWAYS that the position of highest priority and will be placed on the Marquee before any other items are considered

(B) The following will NOT be allowed to be advertised on the Marquee:

- (1) Private benefits, including such things as dinners to benefit a family or an individual. Business events (except for those that are sponsored by an official civic organization and serve a clear and specific public purpose)
- (2) Recognition of an individual for sports achievements, services in the armed forces, or any other individual type recognition where the individual(s) names would be advertised. However,

a group may be recognized for such. For example: “Welcome home from Iraq Company B” would be acceptable, as would “Good luck at State Huskies”. These types of recognition advertisements would not be considered of high priority though and would be allowed only if there were room on the Marquee and at the discretion of the Clerk/Administrator and Public Works Director.

§171.00 AN ORDINANCE LIMITING POSSESSION OF CERTAIN CONTAINERS OF 3.2 PERCENT OR INTOXICATING MALT LIQUOR (KEGS)

DEFINITIONS: For the purpose of this section the following definitions shall apply:

Subd. 1. Intoxicating Liquor. Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 2. Kegs. Containers designed for and capable of holding intoxicating or 3.2 percent malt liquor to be dispensed from a tapper.

Subd. 3. 3.2 Percent Malt Liquor. Malt liquor containing not less than one half of one percent alcohol by volume nor more than 3.2 percent of alcohol by weight.

POSSESSION OF KEGS BY INDIVIDUAL. No more than one keg capable of containing up to sixteen (16) Gallons of intoxicating or 3.2 percent malt liquor may be possessed by any person within the City of Avon.

LOCATION OF KEGS ON PROPERTY UNIT. No more than one keg capable of containing up to sixteen (16) gallons of intoxicating or 3.2 percent malt liquor may be located on a single property unit within the City of Avon. For purposes of this section, a single property unit shall be defined as a contiguous parcel of real property with common ownership, except in the case of real property which is leased to multiple individuals or entities, in which case each area rented by separate written or oral lease shall be considered a single property unit.

CONTROLLER OF PROPERTY LIABLE: For purpose of Section _____ herein, the person in control of the property unit shall be held responsible for a violation. For purposes of this section, ownership of property is prima facia evidence of control; except in the care of rental property, in which case tenant’s leasehold interest shall be prima facia evidence of control.

DUTY OF LICENSED LIQUOR ESTABLISHMENT. Each liquor establishment located in the City of Avon and offering for sale kegs containing 3.2 percent or intoxicating malt liquor for consumption off premises, shall, as a condition of said license, post in a conspicuous location within (5) feet of the check out location in the establishment, a notice provided by the Avon Police Department regarding the provisions of this ordinance.

EXCEPTIONS. Any person or premises licensed to sell intoxicating or 3.2 percent malt liquor under any provision of state law or local ordinance may possess kegs and are specifically exempted from the provisions of this ordinance.

PENALTIES. A violation of a provision of this Ordinance shall be punishable as a misdemeanor.

172.00 CITY OF AVON POLICIES ON LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

1. Purpose. The purpose of this assessment policy is to establish a fair and equitable manner of distributing and recovering the cost of public improvements. The procedures used by the City of Avon ("City") for levying special assessments are those specified by Minnesota Statutes Chapter 429 which provides that all or a part of the cost of improvements may be assessed against benefiting properties.

Three basic criteria must be satisfied before a particular parcel can be assessed. The criteria are as follows:

- A. The land must have received special benefit from the improvement.
- B. The amount of the assessment must not exceed the special benefit.
- C. The assessment must be uniform in relation to the same class of property within the assessment area.

It is important to recognize that the actual cost of extending an improvement past a particular parcel is not the controlling factor in determining the amount to be assessed. However, in most cases the method for determining the value of the benefit received by the improvement, and therefore the amount to be assessed, shall be the cost of providing the improvement. This shall be true provided the cost does not exceed the increase in the market value of the property being assessed. The entire project shall be considered as a whole for the purpose of calculating and computing an assessment rate. In the event City staff has doubt as to whether or not the costs of the project may exceed the special benefits to the property, the City Council may obtain such appraisals as may be necessary to support the proposed assessment.

The City must recover the expense of installing public improvements, while ensuring that each parcel pays its fair share of the project cost in accordance with these assessment guidelines. While there is no perfect assessment policy, it is important that assessments be implemented in a reasonable, consistent and fair manner. There may be exceptions to the policy or unique circumstances or situations which may require special consideration and discretion by City staff and the City Council. This assessment policy is intended to serve as a guide for systematic assessment in the City.

2. Definition Of Improvements Eligible for Special Assessment. The public improvements authorized by Minnesota Statutes 429, as it may be amended from time to time, are eligible for special assessment within the City.

The City also retains authority to recover, through special assessment, the following maintenance costs:

- A. Snow, ice and rubbish removal from sidewalks.
- B. Weed elimination from streets and private property.
- C. Elimination of public health hazards from private property.
- D. Installation or repair of water service lines.
- E. Street sprinkling and dust treatment.
- F. Treatment and removal of insect-infested or diseased trees on private property.
- G. Trimming and care of trees and removal of unsound trees.
- H. Repair of sidewalks and alleys.
- I. Operation of street lighting systems.
- J. Operation and maintenance of a fire protection system.

3. Initiation of Public Improvement Projects. Initiation of public improvement projects can be undertaken in any of the following ways:

A. Public improvement projects may be initiated by petition of at least 35% of the affected property owners. Alley improvements require 50% of the affected property owners signing the petition.

B. Public improvements also may be initiated by the City Council when, in its judgement, such action is required. A resolution ordering any Council initiated improvements requires an absolute majority (four affirmative votes) of the five members of the Council.

C. At the request of a developer and as allowed by the Development Agreement with the City, a developer of the proposed subdivision may petition the City Council to construct the improvements and assess them.

4. Public Improvement Procedure. The City will follow statutory procedures for public improvement projects from initiation of such a project through certification of the assessment roll to the County Auditor. The procedure varies depending upon whether the project is initiated by some or all of the affected property owners, or by Council action.

5. Financing of Public Improvements. The City encourages public improvement projects as the area(s) benefiting and needing such improvements develop. Examples of this policy can be seen through the subdivision regulations, zoning ordinance, and building codes. New areas are required to provide the needed improvements and services before development occurs, thereby not creating unexpected hardships on the property owners purchasing such property nor on the general public. However, it is recognized that certain areas have developed without all needed public improvements (e.g. parks, water, sewer, and street improvements) and that methods must be found to provide these improvements without causing undue hardships on the general public or the individual property owner. Public infrastructure also needs to be upgraded or replaced periodically and a fair means of allocating and collecting those costs is also set forth in this policy.

Special assessments are generally accepted as a means by which areas can obtain improvements or services, however, the method of financing these is a critical factor to both the City and the property owner. Full project costs spread over a very short term can cause an undue hardship on the property owner and, likewise, City costs and systems costs spread over a long period of time can produce an undue hardship on the general public of the City.

The City Council may elect to defer assessments on undeveloped lands for a specified length of time or until the lands are developed. Terms and conditions of this deferral will be established in the resolution adopting the assessments.

6. General Assessment Policies Applicable To All Types of Improvements. The cost of any improvement shall be assessed upon property benefited by the improvements based upon benefits received. The following general principles shall be used as a basis of the City's assessment policy.

A. The "project cost" of an improvement includes the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing and other contingent costs, including acquisition of right-of-way and other property. The finance charges include but are not limited to financial consultant's fees, bond rating agency fee, bond attorney's fees, discount factors, and capitalized interest. When the project is started and funds are expended prior to receiving the proceeds from a bond sale, the project will be charged interest on the funds expended from the date of expenditure to the date the bond proceeds are received. The interest charged to the project shall be included as financing charges. For ease of administration and consistency, and in order to make reasonable estimates prior to project completion, the City may add a flat percentage charge to all construction costs to cover these administrative, financing, and other costs.

B. The "assessable cost" of an improvement is equal to the "project cost" minus the "City cost".

C. The City will charge interest on special assessments at a rate specified in the resolution approving the assessment roll. If bonds were sold to finance the improvement project, the interest rate shall be more than the average interest rate of the bonds. If no bonds were sold, the interest rate may be set at the rate allowed by state law.

D. Property owners may pay their assessments in full interest free for a period of 30 days after the assessment hearing. After such period, interest shall be computed from the date specified in the assessment resolution. The City will certify each year's collection (principal and interest) to the County Auditor by November 30. Prior to the first certification of principal and interest to the County Auditor, a property owner may make a partial prepayment of the principal to the City. Such partial prepayment must be at least \$100.00. If the partial prepayment is made after the 30 day "interest free" period allowed by state law, interest will be charged on the amount of the partial prepayment from the date specified in the resolution and paid along with the partial prepayment. After the City has made the first certification of principal and interest to the County Auditor, prepayment will be accepted only for the total amount still owing including interest. If a parcel has two or more separate special assessments, prepayment of the remaining principal balance may be made on one or more.

E. Where the project cost of an improvement is not entirely attributed to the need for service to the area served by said improvement, or where unusual conditions beyond the control of the owners of the property in the area served by the improvement

would result in an inequitable distribution of special assessments, the City, through the use of other funds, may pay such "City cost" which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served. However, when such improvements are made at the request of a Developer and are not determined to be of benefit to the City due to timing and/or location of the improvements, the City may opt not to provide for any "city cost" and the Developer will be 100% responsible for such costs with no reimbursement from the City.

F. If financial assistance is received by the City from the Federal Government, the State, the County, or from any other source to defray a portion of the costs of a given improvement, such aid may be used first to reduce the "City cost" of the improvement. If the financial assistance received is greater than the normal "City cost", the remainder of the aid will be placed in the City's Capital Improvement Funds to be applied towards other City projects.

G. City-owned properties, including municipal building sites, parks and playgrounds, but not including public streets and alleys, shall be regarded as being assessable on the same basis as if such property was privately owned. This section refers to improvements made to property already owned by the City – not to newly developed property of which portions will be dedicated to the City. Improvements made to or adjacent to property to be dedicated to the City pursuant to an approved plat and/or Development Agreement for new development shall be payable by the Developer or assessed against other properties within the Development or as specified in the Development Agreement for such plat.

7. Methods Of Assessment. There are different methods of assessment: per lot, adjusted front foot, and area. For any particular project one of these methods will more adequately reflect the true benefits received in the assessment area than the other methods. The City Engineer, in the feasibility study to the Council, will recommend one or a combination of these methods for each project, based upon which method would best reflect the benefit received for the area to be assessed. The City Council will select the preferred method of calculating the assessments on a project by project basis.

The following methods of assessment, as described and defined below, are hereby established as the official methods of assessment in the City.

A. Adjusted Front Footage Method of Assessment. The "cost per adjusted front foot" shall be defined as the quotient of the "assessable cost" divided by the total assessable frontage benefiting from the improvement. For the purpose of determining the "assessable frontage," all properties, including governmental agencies, shall have their frontages included in such calculation.

The actual physical dimensions of a parcel abutting an improvement (i.e., street, sewer, water, etc.) shall not be construed as the frontage utilized to calculate the assessment for a particular parcel. Rather, an "adjusted front footage" will be determined. The purpose of this method is to equalize assessment calculations for lots of similar size. Individual parcels by their very nature differ considerably in shape and area. The following procedures will apply when calculating adjusted front footage. The selection of the appropriate procedure will be determined by

the specified configuration of the parcel. All measurements will be scaled from available plat and section maps and will be rounded down to the nearest foot dimension with any excess fraction deleted.

1. Rectangular Interior Lots. For rectangular interior lots, the “frontage” shall be equal to the dimensions of the side of the lot abutting the improvement.

2. Rectangular Corner Lots. For rectangular corner lots, the “frontage” shall be equal to the dimension of the smaller of the two sides of the lot abutting the improvement plus one-half of the dimension of the larger of said two sides. Provided, however, that where the “long side” of a corner lot exceeds 150 feet, the entire excess over 150 feet shall be regarded as frontage. Provided, further, that for ornamental street lighting in a residential area, and for all street resurfacing improvements, the “frontage” of a rectangular corner lot shall be equal to only the dimension of the smaller of the two sides of the lot.

3. Irregular Interior Lots. For irregularly shaped interior lots, the “frontage” shall be equal to the average width of the lot when the depth is 150 feet or less. When the depth exceeds 150 feet, the “frontage” shall be equal to the average width of the lot measured at the 150 feet point and the front of the lot.

4. Irregular Corner Lots. For irregularly shaped corner lots, the “frontage” shall be equal to the average length of the lot. Provided, however, that where the average length of the lot exceeds 150 feet, the entire excess over 150 feet shall be regarded as frontage. Provided, further, that for ornamental street lighting in residential areas, and for all street resurfacing improvements the “frontage” of an irregularly shaped corner lot shall be equal only to the average width of the lot.

5. For interior lots less than 150 feet in depth which abut two parallel streets, the “frontage” for a given type of surface improvement shall be calculated on only one side of the lot.

6. For end lots less than 150 feet in depth which abut three streets, the “frontage” for a given type of surface improvement shall be calculated on the same basis as if such lot was a corner lot abutting the improvement on two sides only.

7. For lots greater than 150 feet in depth which abut two parallel streets, the “frontage” for a surface improvement shall be calculated independently for each frontage.

8. Maximum Assessable on Existing Parcels. The maximum assessable footage on existing developed lots (i.e. not new development subdivisions) will be 150 lineal feet or 22,500 square feet. Lots or parcels exceeding these dimensions for assessment purposes will have a deferred assessment or area charge applied against any future lots which may be subdivided from the larger parcel. Multiple tax parcels which contain only one principal structure may utilize this maximum assessable footage limit only if they combine tax parcels into a single parcel prior to assessment. Otherwise, each parcel will be treated

as having its own maximum assessable footage.

B. "Area" Method of Assessment. When it has been determined to assess by the "area" method, the area shall be defined as the number of square feet or acres within the boundaries of the appropriate property lines of the areas benefiting from the project. The assessment rate (i.e., cost per square foot) shall be calculated by dividing the total assessable cost by the total assessable area. On large lots, the City Engineer may determine that only a portion of the lot receives the benefit and may select a lot depth for the calculations equal to the benefit received.

For the purposes of defining assessable areas, all properties included in the benefited area, including other governmental areas, churches, etc., shall be included in the assessable areas. The following items may be *excluded* in area calculations: public right-of-ways, *dedicated stormwater ponds*, and delineated Wetlands. The City Engineer will make the recommendation on the benefited area in the feasibility report.

C. Per Lot Method. When it has been determined to assess by the "per lot" method, all lots within the benefited area shall be assessed equally for the improvements. The "cost per lot" shall be defined as the quotient of the "assessable cost" divided by the total assessable lots or parcels benefiting from the improvement. For the purpose of determining the "lots" or "parcels" all parcels, including governmental agencies, shall be included in such calculations.

8. Standards For Public Improvement Projects. The following standards are hereby established by the City to provide a uniform guide for improvements within the City and also to be used by the City Engineer in establishing "system costs" as differentiated from "assessable costs" and "City costs."

A. Surface Improvements. Surface improvements shall normally be interpreted to include all improvements visible on or above the ground within the right-of-way, and includes, but is not limited to trees, lighting, sidewalks, signing; street and accessory improvements such as surfacing, curb and gutter, drainage facilities, grading, signalization; and other public improvements such as drainage ponds and facilities, parking lots, parks and playgrounds.

In all streets, prior to street construction and surfacing, or prior to resurfacing, all utilities and utility service lines (including sanitary sewers, storm sewers, water lines, gas and electric service) shall be installed to serve each known or assumed building location when practicable.

When practicable, no surface improvements to less than both sides of a full block of street shall be approved except as necessary to complete the improvement of a block which has previously been partially completed. Unless exceptional circumstances exist and the Council approves otherwise, concrete curbing or curb and gutter shall be installed at the same time as street surfacing.

B. Subsurface Improvements. Subsurface improvements shall normally include

such items as water distribution, sanitary sewer and storm sewer lines and electric and gas utilities.

For purposes of definition, main lines are defined as the publicly owned and maintained lines such as trunk lines, interceptors, mains, laterals, etc. The service lines are those privately owned service lines going from the main line to the property line.

Subsurface improvements shall be made to serve current and projected land use. All installations shall conform to city standards as established by those state and/or federal agencies having jurisdiction over the proposed installations. Service lines from the lateral or trunk to the property line for each known or assumed building location shall be installed in conjunction with the construction of the mains.

9. Assessment Computations

A. Street, Alley, Curb and Gutter Improvements.

1. **New Construction.** All new streets and alleys will be assessed 100% to the abutting benefited properties. New curb and gutter shall be 100% assessed, in like manner with the streets. Street, alley, curb and gutter improvements will normally be assessed by the adjusted front foot method, however other methods may be utilized if conditions warrant. Cost of construction of streets shall be assessed based on the minimum design of 36-foot width in residential areas and 44-foot width in commercial and industrial areas. Oversizing costs which are incurred in excess of the above may be paid by: (1) State Funds, (2) larger assessment rates to other benefited properties, (3) general obligation funds, or (4) any other method or combination of methods authorized by the City Council. 32-foot width construction will be considered by the Council for township neighborhoods annexed into the City and for developments participating in the lifecycle housing efforts of the City.

Reconstruction, Replacement, and Resurfacing. All street and alley reconstructions and resurfacing (other than sealcoating, cracksealing, and overlays) shall be 35% assessed on either an adjusted front foot or on a per lot basis, *except where paragraph F below applies*. Replacement of small sections of curb and curb repairs will not be assessed. The City will consider factors contributing to the need for reconstruction, replacement or resurfacing (design or installation deficiencies) and may consider adjustment to the assessment percentage based upon such circumstances. The City Council also reserves the right to amend this provision on assessment for specific projects due to other extenuating circumstances.

2. **Gravel Streets/Alleys.** Upgrading an existing gravel street or alley by adding pavement and/or curb and gutter shall be considered new construction and all costs will be 100% assessed.

3. **Seal Coats/Cracksealing/Overlays.** Seal coats, cracksealing and nonreclamation overlays will be considered standard maintenance and will not be assessed.

B. Sidewalks and Trails. Sidewalks and trails will be assessed 100% in new development. Sidewalks and trails added in existing neighborhoods will be 100% assessed to abutting properties which are multi-family residential (3 or more units) or commercial/industrial uses, and 35% assessed to abutting properties which are single family residential uses. Trail overlays or reconstruction will be considered standard maintenance and will not be assessed. Sidewalk repair or replacement will be required to be completed by the property owner and if the property owner fails to have the required repair or replacement completed, the City may undertake the work and bill the full cost incurred to the property owner and assess it in the event of non-payment. The City Council reserves the right to amend this assessment for specific projects, due to extenuating circumstances.

C. Storm Sewer Improvements. Storm sewers may be assessed on a project-by-project basis. Storm sewer *improvements* are considered a 100% assessable improvement on an area basis and will pay a minimum flat fee per square foot as established in the City's fee schedule from time to time or actual cost of construction, whichever is higher. Storm sewer improvements in existing neighborhoods, including newly annexed existing developments, will ***be assessed 35% of such flat fee per square foot or actual cost, whichever is higher.***

D. Sanitary Sewer Assessments. Sanitary sewer initial installation will be 100% assessed to benefiting properties based upon the cost of construction of up to a 10-inch main without special consideration for depth. Oversizing costs due to larger mains and larger appurtenances will be paid for by a combination of availability charges, user charges and/or trunk area charges. Trunk area sewer charges shall be levied to all unplatted property at the time of development and against vacant parcels located outside of the City limits upon their annexation. The sewer area rate shall be established by the City Council from time to time. Services installed to individual properties will be 100% assessed to the benefiting property.

In addition, sewer hook-up charges (availability charges) will be charged to all new connections to the City sewer system. Hook-up charges shall be set by the City Council and may be amended from time to time.

The replacement of existing sewer lines/infrastructure will be assessed 35% of the rate established by the City Engineer for sewer improvements to newly annexed properties pursuant to Section F. below, with the remaining costs paid for by other funding sources identified by the City Council (e.g. user rates). However, the City will consider factors contributing to the need for replacement (design or installation deficiencies) and may consider adjustment to the assessment percentage based upon such circumstances.

Any existing service lines found to be defective as part of a reconstruction project shall be replaced as part of the project and assessed directly to the property.

E. Watermain Assessments. Water line initial installation will be 100% assessed to benefiting properties based upon the cost of construction of up to a 10-inch main. Oversizing costs due to larger mains and larger appurtenances will be paid for by a combination of availability charges (hook-up charges), user charges, and/or trunk area charges. Trunk area water charges shall be levied against all unplatted property at the time of development and against vacant parcels located outside of the City limits upon their annexation. The water area rate shall be established by the City Council from time to time. Services installed to individual properties will be 100% assessed to the benefiting property.

In addition, water hook-up charges (availability charges) will be charged to all new connections to the City water system. Hook-up charges shall be set by the City Council and may be amended from time to time.

The replacement of existing water lines/infrastructure will be assessed 35% of the rate established by the City Engineer for water improvements to newly annexed properties pursuant to Section F. below, with the remaining costs paid for by other funding sources identified by the City Council (e.g. user rates). However, the City will consider factors contributing to the need for replacement (design or installation deficiencies) and may consider adjustment to the assessment percentage based upon such circumstances.

Any existing service lines found to be defective as part of a reconstruction project shall be replaced as part of the project and assessed directly to the property.

F. Newly Annexed Developed Properties. Newly annexed properties which already have a principal structure on them will be assessed 100% of a standard rate established by the City Engineer from time to time for extension of City water and/or sewer to such properties. In addition, they shall pay the SAC and WAC charges as established by the City Council at the time of connection to such services. Street improvements made to such existing developments will be assessed at 35% of a standard street improvement rate and 100% of a standard curb and gutter rate established by the City Engineer and updated on a periodic basis. However, where the size of such developed parcels allows for possible future subdivision, a deferred assessment or area charge may be applied to such parcels at the time of subdivision as a fair and equitable assessment of the benefit such parcels receive.

G. Street Boulevard Trees. All street boulevard trees installed as part of new street construction or in reconstructing existing streets shall be included as part of the overall project costs included in the assessment calculations. The property owner is responsible for maintenance of such boulevard plantings and all costs associated therewith.

H. Street Lights. All costs for new street lights installed as part of constructing new streets or street lights relocated as part of reconstructing streets will be included in the overall project costs and included in the assessment calculations for existing development and paid up front (without assessment) by the Developer for new development projects made pursuant to a Development Agreement and new plat

approval. Street lights will be assessed 35% upon replacement and 100% when added as part of a street reconstruction or upgrade project.

I. Other Improvements. Based on the City Council determination, all other improvements may be fully assessed or assessed in part.

§172.001 AVON ASSESSMENT CALCULATIONS