

REQUEST FOR COUNCIL ACTION

Date: July 18, 2011
Item No.: 13 . a

Department Approval

City Manager Approval

WJ Malinen

Item Description: Discussion of Utility Rate Notices

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2 **BACKGROUND**

3 Mayor Roe has asked the Council to consider whether the City should annually mail parcel
4 specific notices to property owners, notifying them of projected utility increases.

5 **FINANCIAL IMPACTS**

6 Staff will provide information at the Council meeting.

7 **REQUESTED COUNCIL ACTION**

8 Discussion of whether the city should send utility rate notices to property owners..
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Prepared by: William J. Malinen

Attachments: A: Proposed Draft Ordinance
B: City Code related to utilities rates and fees
C: State Statute related to property tax notices and procedures

1 **PROPOSED DRAFT ORDINANCE (ROE)**

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4 **Chapter 109: Procedures for Adoption of Municipal Utility Fees**

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7 **Sections:**

8 109.01 Applicability

9 109.02 Proposed Municipal Utility Fees; Notice of Meeting

10 109.03 Notice of Proposed Utility Fees

11 190.04 Adoption of Final Budget and Utility Fees

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14 **109.01 Applicability.**

15 This chapter shall apply to all regular, periodically-recurring base fees and usage fees charged
16 by the City to utility customers or property owners as prescribed in chapters 403, 801, 802, and
17 803 of this Code. Special, not periodically-recurring charges, fees, penalties, deposits, or
18 assessments shall not be subject to the requirements of this chapter.

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20 **109.02 Proposed Municipal Utility Fees; Notice of Meeting**

21 A. On or before September 15 of each year, at a regularly scheduled meeting, the City Council
22 shall adopt by resolution a proposed budget for each department or utility to which this chapter
23 is applicable, along with proposed base fees and usage fees, as applicable, required to support
24 the proposed budget and capital needs of such departments or utilities.

25 B. At the same meeting at which the proposed budget and fees are adopted, the City Council
26 shall set the time and place of its subsequent regularly scheduled meetings at which the final
27 budget and fees will be discussed, and at which the public will be allowed to speak.

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29 **109.03 Notice of Proposed Utility Fees**

30 A. The City shall prepare and deliver after November 10 and on or before November 24 of
31 each year, by first class mail to each utility customer or property owner at the address listed on
32 the utility account or property tax record, as applicable, a notice of proposed utility fees as
33 adopted in accordance with Section 109.02. Upon written request by the utility customer or
34 property owner, the notice may be sent in an electronic form substantially the same as a mailed
35 notice.

36 B. The City Manager or his or her designee shall prescribe the form of the notice.

37 C. The notice must contain, at a minimum, the following:

- 38 1. The name, address, and applicable City utility account number(s) for which the
39 notice applies;
40 2. The current base fees and usage fees, by Utility, Department, or Code Chapter, as
41 applicable, that may apply to the noticee, subject to actual utility usage;
42 3. The most recent total annual cost, or estimate thereof if based on partial-year data,
43 to the noticee for each Utility, Department, or Code Chapter for which the noticee
44 was charged by the City;
45 4. The sum total of the amounts in paragraph 3 above;
46 5. The proposed base fees and usage fees, by Utility, Department, or Code Chapter, as
47 applicable, as adopted in accordance with section 190.02 that may apply to the
48 noticee, subject to actual utility usage;

6. The differences between the proposed and current base fees and user fees listed in paragraphs 2 and 5 above, expressed as a percentage;
7. The projected total annual cost to the noticee for each Utility, Department, or Code Chapter, based on the average annual usage, or estimate thereof if based on partial-year data, of the previous three (3) years of usage at the subject property;
8. The sum total of the amounts in paragraph 7 above;
9. The difference between the current and proposed totals in paragraphs 4 and 8 above, expressed as a percentage; and
10. The time and place of the meetings set forth in section 109.02.

190.04 Adoption of Final Budget and Utility Fees

A. At a regular City Council meeting, after hearing public comment as set forth in section 109.02, the City Council shall by resolution adopt the final budget and the base fees and usage fees for each department or utility for which this chapter is applicable.

B. The final base fees and usage fees as adopted hereunder shall not exceed the proposed fees adopted in accordance with section 190.02, but may be less.

190.05 Validity of Budget and Fees

Failure of the City to provide notice in accordance with section 190.03 does not invalidate the final adopted budget or base fees and usage fees.

190.06 Costs of Providing Notices

The costs of providing the notice required by this chapter shall be included in the budgets of each applicable department or utility.

**Excerpts of Current City Code related to rates and fees of Utilities
(for reference) (Roe)**

RECYCLING UTILITY:

403.13: RECYCLING FEE:

A. Fee: All Residential Dwellings and Multi-Family Complexes shall pay a recycling fee. The fee shall be charged quarterly as part of the City utility bill and shall be due along with the utility bill. The fee shall be as prescribed from time to time by City Council resolution. (Ord. 1280, 03-31-2003)

B. Penalty: Each quarterly billing for a recycling fee not paid when due shall incur a penalty charge of 10% of the amount past due.

C. Action to Collect: Any amount due, including penalties, for recycling fee in excess of 90 days past due on October 1 of any year shall be certified to the County Auditor for collection with real estate taxes in the following year. (Ord. 1098, 8-12-1991)

WATER UTILITY:

801.16: WATER RATES AND COLLECTION OF CHARGES:

A. Accounts, How Kept: All accounts shall be kept on the books of the Finance Officer by the house and street number, under the account number assigned and by the name of the owner or of the person signing the application for service. All bills and notices sent out by the Finance Officer shall be sent to the house or street number of the property. If nonresident owners or agents desire personal notice sent to a different address, they shall file an application with the Finance Officer. Any error in address shall be promptly reported to the Finance Officer. (Ord. 388, 4-22-63; 1995 Code)

B. Water Rates:

1. Regular Rate; Minimum Rate: The rate due and payable by each water user within the City for water taken from the water system shall be payable quarterly in an amount set by the Council and kept on file in the City Manager's office in the form of a rate schedule. (1990 Code)

2. Faulty Meter: In case the meter is found to have stopped or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.

3. Proration: Where service is for less than a quarterly period, the quarterly charge will be prorated on a monthly basis. (Ord. 388, 4-22-1963)

4. Automatic Sprinkler System: Where a connection is made to an automatic sprinkler system for standby service only, on either Municipal or private water mains, a charge for such service shall be made on an annual basis in an amount set by the Council, and kept on file in the City Manager's office, in the form of a rate schedule. (1990 Code)

These rates shall apply in all cases where automatic sprinklers are installed and where fire gates and other outlets are sealed. Meters or detector check valves must be installed on such services as required by the Public Works Director. An additional charge for volume used based

on subsection B1 of this Section shall be due and payable by the user for usage over 1,000 gallons per year. (Ord. 936, 12-19-1983)

5. Rates Outside City Limits: Rates due and payable by each water user located beyond the territorial boundaries of the City shall be determined by special contract. (Ord. 388, 4-22-1963)

6. Unconnected Service Pipe:

a. Where a service pipe is connected to the stop box and laid into the building with no intention of connecting to the building piping for use immediately, there shall be the same minimum rates charged as in subsection B1 of this Section. (Ord. 496, 7-18-1966)

b. A meter shall be installed on the street valve in the house and a remote register outside regardless of whether inside piping is connected. (1990 Code)

7. Discontinued Use: In the event the water customer elects to discontinue the use of the Municipal water, the regular or minimum charge shall continue until such date as the service pipe is excavated and disconnected at the stop box. (Ord. 496, 7-18-1966)

8. Head of Household: The City Council may establish reduced water rates for any residence in which the owner and head of the household is receiving retirement survivors' insurance or disability insurance under the Social Security Act, 42 U.S.C. section 301, as amended. (Ord. 620, 4-27-1970; 1995 Code)

C. Payment of Charges: Any prepayment or overpayment of charges may be retained by the City and applied on subsequent quarterly statements. (Ord. 407, 11-18-1963; 1990 Code)

D. Action to Collect Charges: Any amount due for water charges in excess of 90 days past due shall be certified to the County Auditor for collection with real estate taxes. This certification shall take place regardless of who applied for water services, whether it was the owner, tenant or other person. All applications for water service shall contain an explanation in clear language that unpaid water bills will be collected in real estate taxes in the following year. The City shall also have the right to bring a civil action or other remedies to collect unpaid charges. (Ord. 661, 3-13-1972) (Ord. 1383, 6-08-2009)

E. Penalty For Late Payment: Each quarterly billing for water service not paid when due shall incur a penalty charge of ten percent of the amount past due. (1990 Code, per letter dated 1-31-1997)

(SANITARY) SEWER UTILITY:

802.12: RATES AND CHARGES:

A. Charges for Use: A charge is hereby imposed upon every person whose premises are served, either directly or indirectly, by the sanitary sewer system within the City, for the use of the facilities of said sewer system and for connection to the system. Such charges shall be in an amount set by the Council and shall be kept on file in the City Manager's office in the form of a rate schedule. (Ord. 592, 2-17-69; amd. 1990 Code)

B. Supplemental Charges for Industrial Sewage Wastes: In respect to property which shall be connected to the City sewer for the disposal of industrial sewage wastes, which shall by virtue of its strength and volume be subject to supplementary charges by the Metropolitan Waste Control Commission, the City may impose a supplemental charge based generally upon and at

least equal to the amount of the Metropolitan Waste Control Commission supplemental charge.

C. Payment of Charges: Any prepayment or overpayment of charges may be retained by the City and applied on subsequent quarterly statements.

D. Penalty for Late Payment: Each quarterly billing for sewer charges not paid when due shall incur a penalty charge of ten percent of the amount past due. (Ord. 592, 2-17-69; amd. 1995 Code)

E. Action to Collect Charges: Any amount due for sewer charges, including Metropolitan Waste Control Commission sewer charges, in excess of ninety 90 days past due shall be certified to the County Auditor for collection with real estate taxes. This certification shall take place regardless of who applied for sewer services, whether it was the owner, tenant or other person. The City shall also have the right to bring a civil action or other remedies to collect unpaid charges. (Ord. 661, 3-13-72; amd. 1995 Code) (Ord. 1383, 6-08-2009)

STORM SEWER UTILITY:

803.01: STORM WATER DRAINAGE UTILITY:

A. Establishment: The Municipal storm sewer system shall be operated as a public utility pursuant to Minnesota Statute, section 444.075, from which revenues will be derived subject to the provisions of this Section and Minnesota statutes. The storm water drainage utility will be part of the Public Works Department and under the administration of the Public Works Director.

B. Definition: "Residential equivalent factor, (REF)" - One REF is defined as the ratio of the average volume of runoff generated by one acre of a given land use to the average volume of runoff generated by one acre of typical single-family residential land during a standard one year rainfall event.

C. Fees: Storm water drainage fees for parcels of land shall be determined by multiplying the REF for a parcel's land use by the parcel's acreage and then multiplying the REF for a parcel's land use by the parcel's acreage and then multiplying the resulting product by the storm water drainage rate. The REF values for various land uses are as follows[1]:

For the purpose of calculating storm water drainage fees, all developed one-family and duplex parcels shall be considered to have an acreage of one-third (1/3) acre. The storm water drainage rate used to calculate the actual charge per property shall be established by City Council Resolution.

D. Credits: The City Council may adopt policies recommended by the Public Works Director, by resolution, for adjustment of the storm water drainage fee for parcels based upon hydrologic data to be supplied by property owners, which data demonstrates a hydrologic response substantially different from the standards. Such adjustments of storm water drainage fees shall not be made retroactively.

E. Exemptions: The following land uses are exempt from storm water drainage fees:

1. Public rights of way.
2. Vacant, unimproved land with ground cover.

142 F. Payment of Fee: Statements for storm water drainage fee shall be computed every three
143 months and invoiced by the Finance Officer for each account on or about the fifth day of the
144 month following the quarter. Such statement shall be due on or before the last day of the
145 month in which the statement is mailed. Any prepayment or overpayment of charges shall be
146 retained by the City and applied against subsequent quarterly fees.

147 G. Recalculation of Fee: If a property owner or person responsible for paying the storm water
148 drainage fee questions the correctness of an invoice for such charge, such person may have the
149 determination of the charge recomputed by written request to the Public Works Director made
150 within twelve months of mailing of the invoice in question by the City.

151 H. Penalty for Late Payment: Each quarterly billing for storm water drainage fees not paid
152 when due shall incur a penalty charge of ten percent of the amount past due.

153 I. Certification of Past Due Fees on Taxes: Any past due storm water drainage fees, in excess
154 of 90 days past due, may be certified to the County Auditor for collection with real estate
155 taxes, pursuant to Minnesota Statute, section 444.075, subdivision 3. In addition, the City shall
156 also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.
157 (Ord. 937, 1-9-84; amd. 1995 Code) (Ord. 1383, 6-08-2009)
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Excerpts of State Statutes related to property tax notices and procedures (used as models for proposed utility notice ordinance) (Roe)

275.065 PROPOSED PROPERTY TAXES; NOTICE.

Subdivision 1. Proposed levy.

(a) Notwithstanding any law or charter to the contrary, on or before September 15, each taxing authority, other than a school district, shall adopt a proposed budget and shall certify to the county auditor the proposed or, in the case of a town, the final property tax levy for taxes payable in the following year.

(e) At the meeting at which the taxing authority, other than a town, adopts its proposed tax levy under paragraph (a) or (b), the taxing authority shall announce the time and place of its subsequent regularly scheduled meetings at which the budget and levy will be discussed and at which the public will be allowed to speak. The time and place of those meetings must be included in the proceedings or summary of proceedings published in the official newspaper of the taxing authority under section [123B.09](#), [375.12](#), or [412.191](#).

Subd. 3. Notice of proposed property taxes.

(a) The county auditor shall prepare and the county treasurer shall deliver after November 10 and on or before November 24 each year, by first class mail to each taxpayer at the address listed on the county's current year's assessment roll, a notice of proposed property taxes. Upon written request by the taxpayer, the treasurer may send the notice in electronic form or by electronic mail instead of on paper or by ordinary mail.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) The notice must inform taxpayers that it contains the amount of property taxes each taxing authority proposes to collect for taxes payable the following year. In the case of a town, or in the case of the state general tax, the final tax amount will be its proposed tax. The notice must clearly state for each city, county, school district, regional library authority established under section [134.201](#), and metropolitan taxing districts as defined in paragraph (i), the time and place of the taxing authorities' regularly scheduled meetings in which the budget and levy will be discussed and the final budget and levy determined, which must occur after November 24. The taxing authorities must provide the county auditor with the information to be included in the notice on or before the time it certifies its proposed levy under subdivision 1. The public must be allowed to speak at the meetings and the meetings shall not be held before 6:00 p.m. It must provide a telephone number for the taxing authority that taxpayers may call if they have questions related to the notice and an address where comments will be received by mail.

(d) The notice must state for each parcel:

(1) the market value of the property as determined under section [273.11](#), and used for computing property taxes payable in the following year and for taxes payable in the current year as each appears in the records of the county assessor on November 1 of the current year; and, in the case of residential property, whether the property is classified as homestead or nonhomestead. The notice must clearly inform taxpayers of the years to which the market values apply and that the values are final values;

(2) the items listed below, shown separately by county, city or town, and state general tax, net of the residential and agricultural homestead credit under section [273.1384](#), voter approved school levy, other local school levy, and the sum of the special taxing districts, and as a total of all taxing authorities:

(i) the actual tax for taxes payable in the current year; and

(ii) the proposed tax amount.

If the county levy under clause (2) includes an amount for a lake improvement district as defined under sections [103B.501](#) to [103B.581](#), the amount attributable for that purpose must be separately stated from the remaining county levy amount.

In the case of a town or the state general tax, the final tax shall also be its proposed tax unless the town changes its levy at a special town meeting under section [365.52](#). If a school district has certified under section [126C.17, subdivision 9](#), that a referendum will be held in the school district at the November general election, the county auditor must note next to the school district's proposed amount that a referendum is pending and that, if approved by the voters, the tax amount may be higher than shown on the notice. In the case of the city of Minneapolis, the levy for Minneapolis Park and Recreation shall be listed separately from the remaining amount of the city's levy. In the case of the city of St. Paul, the levy for the St. Paul Library Agency must be listed separately from the remaining amount of the city's levy. In the case of Ramsey County, any amount levied under section [134.07](#) may be listed separately from the remaining amount of the county's levy. In the case of a parcel where tax increment or the fiscal disparities areawide tax under chapter 276A or 473F applies, the proposed tax levy on the captured value or the proposed tax levy on the tax capacity subject to the areawide tax must each be stated separately and not included in the sum of the special taxing districts; and

(3) the increase or decrease between the total taxes payable in the current year and the total proposed taxes, expressed as a percentage.

For purposes of this section, the amount of the tax on homesteads qualifying under the senior citizens' property tax deferral program under chapter 290B is the total amount of property tax before subtraction of the deferred property tax amount.

(e) The notice must clearly state that the proposed or final taxes do not include the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda and school district levy referenda;

(3) a levy limit increase approved by the voters by the first Tuesday after the first Monday in November of the levy year as provided under section [275.73](#);

(4) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified;

(5) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified; and

(6) the contamination tax imposed on properties which received market value reductions for contamination.

(f) Except as provided in subdivision 7, failure of the county auditor to prepare or the county treasurer to deliver the notice as required in this section does not invalidate the proposed or final tax levy or the taxes payable pursuant to the tax levy.

(g) If the notice the taxpayer receives under this section lists the property as nonhomestead, and satisfactory documentation is provided to the county assessor by the applicable deadline, and the property qualifies for the homestead classification in that assessment year, the assessor shall reclassify the property to homestead for taxes payable in the following year.

(h) In the case of class 4 residential property used as a residence for lease or rental periods of 30 days or more, the taxpayer must either:

(1) mail or deliver a copy of the notice of proposed property taxes to each tenant, renter, or lessee; or

(2) post a copy of the notice in a conspicuous place on the premises of the property.

The notice must be mailed or posted by the taxpayer by November 27 or within three days of receipt of the notice, whichever is later. A taxpayer may notify the county treasurer of the address of the taxpayer, agent, caretaker, or manager of the premises to which the notice must be mailed in order to fulfill the requirements of this paragraph.

(i) For purposes of this subdivision and subdivision 6, "metropolitan special taxing districts" means the following taxing districts in the seven-county metropolitan area that levy a property tax for any of the specified purposes listed below:

(1) Metropolitan Council under section [473.132](#), [473.167](#), [473.249](#), [473.325](#), [473.446](#), [473.521](#), [473.547](#), or [473.834](#);

(2) Metropolitan Airports Commission under section [473.667](#), [473.671](#), or [473.672](#); and

(3) Metropolitan Mosquito Control Commission under section [473.711](#).

For purposes of this section, any levies made by the regional rail authorities in the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington under chapter 398A shall be included with the appropriate county's levy.

(j) The governing body of a county, city, or school district may, with the consent of the county board, include supplemental information with the statement of proposed property taxes about the impact of state aid increases or decreases on property tax increases or decreases and on the level of services provided in the affected jurisdiction. This supplemental information may include information for the following year, the current year, and for as many consecutive preceding years as deemed appropriate by the governing body of the county, city, or school district. It may include only information regarding:

(1) the impact of inflation as measured by the implicit price deflator for state and local government purchases;

(2) population growth and decline;

(3) state or federal government action; and

(4) other financial factors that affect the level of property taxation and local services that the governing body of the county, city, or school district may deem appropriate to include.

The information may be presented using tables, written narrative, and graphic representations and may contain instruction toward further sources of information or opportunity for comment.

Subd. 6. Adoption of budget and levy.

(a) The property tax levy certified under section [275.07](#) by a city of any population, county, metropolitan special taxing district, regional library district, or school district must not exceed the proposed levy determined under subdivision 1, except by an amount up to the sum of the following amounts:

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section [123B.63, subdivision 3](#), or [126C.17, subdivision 9](#), after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds approved by the voters under section [475.58](#) after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a;

- 138 (5) the amount of a levy to pay tort judgments against a taxing authority that become final after
139 the proposed levy was certified, if the amount is approved by the commissioner of revenue
140 under subdivision 6a;
- 141 (6) the amount of an increase in levy limits certified to the taxing authority by the
142 commissioner of education or the commissioner of revenue after the proposed levy was
143 certified;
- 144 (7) the amount required under section 126C.55;
- 145 (8) the levy to pay emergency debt certificates under section [475.755](#) authorized and issued
146 after the proposed levy was certified; and
- 147 (9) the amount of unallotment under section [16A.152](#) that was recertified under section
148 [275.07, subdivision 6](#).
- 149 (b) This subdivision does not apply to towns and special taxing districts other than regional
150 library districts and metropolitan special taxing districts.
- 151 (c) Notwithstanding the requirements of this section, the employer is required to meet and
152 negotiate over employee compensation as provided for in chapter 179A.