

Ordinance Committee Meeting
Tuesday, June 11, 2019 @ 6:30 PM - Senior Center - Small Garden Room #14A

ITEM #1

BE IT ORDERED THAT the Ordinance Committee discuss creating a light pollution ordinance.

ITEM #2

Delete Chapter 275-66 A in its entirety

And insert in place thereof

275-66 A Burnett Road

A. No further business, commercial or industrial development shall occur on Burnet Road from the Ludlow/Chicopee line to the intersection of New Lombard Road and Burnett Road and any appurtenant street for a period of one year commencing on April 1, 2019, and terminating on April 1, 2020, except by special permit.

ITEM #3

Chapter 230

Add Chapter 230-3A Sewer Betterment Assessment

§230-3A SEWER BETTERMENT ASSESSMENTS

A. PURPOSE

The purpose of this Ordinance is to allow private residential or commercial properties which are not connected to the City's sewerage system to connect to that system, and to allow those properties whose connection to the City's sewerage system is in a state of disrepair or is inadequate to meet the needs of such properties, to be repaired or made adequate.

This Ordinance establishes procedures for the City to assess betterment charges against such properties in accordance with the City Charter and the laws of the Commonwealth, and to take ownership of the betterments so constructed and any interest in real property necessary to do so.

This Ordinance affirms that building sewers connected to the extension of the sewerage system contemplated by this Ordinance, will remain under the ownership of the property owner.

B. DEFINITIONS

Benefit. Benefit shall mean an advantage accruing to a property by means of the construction of an extension to the sewerage system. There are two types of benefits, a general benefit and a specific benefit.

Building Sewer - The privately owned extension from the building drain to the public sewer or other place of disposal.

City or City of Chicopee - A municipal corporation in the county of Hampden, Massachusetts.

Commission shall mean the Chicopee Water and Sewer Commission.

General Benefit . General Benefit shall mean the advantage accruing to a property which is already connected to the sewerage system. An example of such an advantage would be better flow of sewage from that property or less likelihood of a sewer back-up due to increased capacity of the system.

Special Benefit Special Benefit shall mean the advantage accruing to a property which for the first time may be connected directly to the sewerage system due to the construction of the extension of the system.

Order of Construction and Assessment. Order for Construction and Assessment shall mean the final form of the original Petition for Construction and Assessment as adopted and approved by the City Council and recorded at the Hampden County Registry of Deeds. It shall contain all information required by Chapter 80 and 83 of the Massachusetts General Laws, including all of the information required by a Petition for Construction and Assessment but specifically, a list of owners and parcels and streets to be assessed.

Petition for Construction and Assessment . Petition for Construction and Assessment ("Petition") shall mean

either a petition for extension or improvement of the sewerage system signed by not fewer than fifty percent (50%) of the owners of land abutting a Private Way as set forth in Section D(i.)(b), or a Petition initiated upon the recommendation of the Superintendent as set forth in D(i)(a). Such a Petition shall have a standard cover sheet and shall refer to a plan identifying the proposed improvements and affected parcels of land as well as the list of owners to be assessed. A successful Petition shall be supported by attached data, plans, estimated costs and any other pertinent information.

Private Way . Private Way shall mean a privately owned street that has not been accepted by the City Council as a public way.

Property Owner . The property owner of record at the Registry of Deeds as of the date of the betterment assessment and as of January 1st of the year in which the taking is approved.

Public Sewer - A sewer in which all owners of abutting properties have equal rights, and is controlled by the City of Chicopee.

Public Way . Public Way shall mean a street formally accepted by legislative act of the City Council and open for travel owned in fee or easement by the City of Chicopee and the general public.

The Department of Public Works Superintendent - The person designated by the City of Chicopee to supervise the Department of Public Works, and who is charged with certain duties and responsibilities by this Code, or his duly authorized representative.

C. AREAS OF RESPONSIBILITY

i. Responsibilities of the Superintendent.

The Department of Public Works Superintendent shall review all Petitions for sewerage system extensions and the analysis of such Petitions by the City Engineer. The Superintendent's review shall include an analysis of whether the work will benefit the people of the City of Chicopee and that the extension of the sewerage system, when completed, will result in an improvement in their living conditions. The Superintendent shall initiate and ensure that all public hearings are duly advertised and held in compliance with the Massachusetts Open Meeting Law.

ii. Responsibility of the City Engineer.

The City Engineer shall review all Petitions for sewerage system extensions. The City Engineer's review shall include an analysis of the need for the extension and its compatibility with the existing system, and shall insure that any design of such extension complies with all engineering and design requirements of the City. In addition, the City Engineer may make recommendations to extend the sewerage system on Private Ways based on analysis that the overall sewerage system would be improved by construction of such an extension.

iii. Responsibility of the City Solicitor

The City Solicitor shall be responsible for drafting the Order of Assessment and filing it in the Hampden County Registry of Deeds following its approval and certification as a public record by the City Clerk.

iv. Responsibility of the DPW Financial Administrator.

The Financial Administrator shall be responsible for ensuring that all betterment assessments are properly computed, and billed, whether on the regular monthly bill or on a special bill.

D. PROCEDURE FOR APPROVAL OF BETTERMENTS

i. Requesting the Construction of Betterment and filing of the Petition for Construction and Assessment with the City Council.

The decision to extend or improve the sewerage works system within the City of Chicopee shall be by the recommendation of the Superintendent to the City Council following a public hearing, in consultation with the City Engineer.

A request to extend the system shall be initiated in one of two ways outlined here:

- a. by a written recommendation of the Superintendent to the City Council after a study of the sewerage system, taking into account the need for a sewer in the street, the need for increased capacity of an existing private sewer, or the need to replace an existing sewer for environmental or public health reasons; or
- b. by Petition to the Superintendent of not fewer than fifty percent (50%) of the owners of land abutting the specific streets affected.

ii. Nature of Petition for Construction and Assessment (“Petition”).

Any Petition for Construction and Assessment submitted to the City Council authorized by this Ordinance shall 1) describe the area to be benefitted by the particular project 2) state with specificity the reason for the request 3) state the nature of the work to be done and 4) state whether it is to be done in a Public Way or a Private Way requiring a taking or conveyance of any necessary interest in real estate and an estimate of the cost of the work or taking. The Petition shall acknowledge that facilities constructed under this Policy will be the sole property of the City of Chicopee.

The form of a Petition to the City Council according to Sections D(i)(a) and D(i)(b) above shall be submitted with a standardized cover sheet, introductory correspondence and an executive summary, and all support data and documentation outlining the criteria established in this Ordinance. The Petition for Construction and **Assessment must refer to a plan of the area according to M.G.L. c. 80 § 2 and must identify all of the streets in which infrastructure is to be installed and any parcel that will be assessed. M.G.L. c. 83 §§ 25 and 27.** A Petition from the Superintendent according to Section D(i)(a) may rely on information and materials prepared by private residents or their engineers, which must be submitted with the Petition to the City Council.

iii. Preliminary Evaluation of the Petition.

Upon receipt of the Petition from residents according to Section D(i)(a) or upon his or her own initiative, the Superintendent shall circulate and forward the Petition to the City Engineer and the City Solicitor. The City Solicitor shall review the Petition to ensure conformity with the requirements of this Ordinance. If the City Solicitor finds the Petition to be deficient under this Ordinance, then the City Solicitor shall inform the Superintendent and the City Engineer immediately, and the Petition shall be rejected, with written notice sent to the petitioners detailing the reasons why the Petition was rejected. If the Petition conforms to the requirements of this Ordinance; the City Solicitor shall approve the Petition “As to Form”. The City Engineer shall examine the need for the extension or improvement of the sewerage system, and in the case of an existing sewer, shall inspect said facility. The City Engineer shall make a report of findings, including an estimate of cost and submit it to the Superintendent and copy to the City Council.

iv. Public Hearing.

In the case of a recommendation of the City Engineer pursuant to Section D(i)(a) of this Ordinance and in the case of a Petition submitted pursuant to Section D(i)(b) of this Ordinance, within thirty days of the transmittal of the City Engineer’s recommendation or the Report, as the case may be, the Superintendent shall cause to be advertised a public hearing concerning the extension or improvement of the sewerage system, in accordance with the Open Meeting Law. Notice of the hearing shall be sent by first class mail, postage prepaid to all

owners of land abutting the streets affected. The hearing shall be chaired by the Superintendent or his or her designee, and relevant Department of Public Works staff shall present its findings regarding the Petition or the recommendation for extension or improvement of the sewerage system, including a summary of the Report or the recommendation of the City Engineer. Any member of the public may present data, views or argument relevant to the proposed extension or improvement of the sewerage system.

v. Approval of the Petition for Construction and Assessment; Order of Construction and Assessment.

Once the Superintendent conducts a public hearing on the Petition, the City Council shall review the Petition and the analyses of the City Engineer and the Superintendent, data, views and argument presented at the public hearing, and shall make a timely preliminary decision regarding the petition at a duly noticed meeting of the City Council.

The decision of the City Council shall be in the form of an Order of Assessment passed by a majority of the City Council, which will be communicated, in writing, to all owners of land abutting the street where the infrastructure improvement is to be constructed.

A final determination by the City that the extension or improvement is to be built shall be made not later than the time the contract for construction of the extension is awarded. Within ninety days of the final determination, the Order of Construction and Assessment adopted by the City Council shall be filed in the Hampden County Registry of Deeds. The Order of Construction and Assessment shall detail the nature of the City Council's action and state that betterments are to be assessed for the system extension. The Order of Construction and Assessment shall specify the street or streets in which the sewer is to be located, identify the properties specially benefited by the extension, identify the owners of said properties as appearing on the City of Chicopee Assessor's records on the preceding January 1, and estimate the dollar amount of the betterment to be assessed against each such property in accordance with Section (4)(b) of this Policy.

E. FINANCING THE PROJECT

The betterment cost to be apportioned among properties specially benefiting from the betterment (the Betterment Assessment) shall be established by the City Council with approval of the Mayor for designing and constructing the work at the time the final approval of the sewerage system extension or improvement is made by the City Council. The Betterment Assessment shall be assessed in accordance with this Ordinance, the City Charter and the provisions of Sections 14 through 24 and 27 through 29 of Chapter 83 of the Massachusetts General Laws, governing the assessment of betterments for the improvement of the sewerage system and Chapter 80 of the Massachusetts General Laws, governing the assessment of betterments generally.

i. Procurement Practices.

Any system extension work is a capital construction project of the City. The City shall follow all applicable federal and state laws, its own Policy on Procurement, and procurement and engineering practices with respect to the design, engineering and construction of the project. Costs associated with the project shall be segregated by the City, for the purpose of assessing the Betterment Assessment.

ii. Determination of Betterment Assessment.

Within six months following the completion of construction of the project extending or improving the sewerage system, the City Council shall assess the Betterment Assessment against those parcels which have accrued a Special Benefit as a result of the extension of the system. Each parcel that is specially benefited by the extension shall be assessed its proportion of the Betterment Cost by the uniform unit method described in

Massachusetts General Laws Chapter 83 Section 15. Under this method, the costs to be assessed shall be divided among the total number of existing and potential sewer units to be served. Each such sewer unit shall be equal to a single family residence. Existing sewer units shall be calculated on the basis of existing structures. Potential sewer units shall be calculated on the basis of zoning then in effect. Parcels shall be allocated existing sewer units, potential sewer units, or both. No parcel which, by reason of its grade or level or any other cause, cannot be drained into such sewer shall be assessed until such incapacity is removed. A parcel directly connected to the sewerage system or to a private sewer system not the subject of the sewerage system which is the subject of the Petition shall be deemed not to benefit from the extension of the system and shall not be assessed a Betterment Cost; provided, however, that should the property at a later point in time seek to connect to the extension of the sewer system it shall be charged a connection fee commensurate with the Betterment Cost which would have been assessed had the property been benefited by the construction of the betterment. In no event shall the amount of the betterment assessed against a parcel exceed the amount estimated in the Order of Assessment filed in the Registry of Deeds.

iii. Apportionment of Payment.

A property owner has the option of paying the assessed amount to the City apportioned over a period of 20 years. The payment shall include interest at the rate equal to the interest rate chargeable to the City. A property owner whose payment is apportioned may pay the total amount of the outstanding Betterment Cost at any time.

iv. Betterments to Constitute a Lien.

All betterments shall constitute a lien on the property assessed from the time the Order of Construction and Assessment is filed with the Hampden County Registry of Deeds with the list of Streets and owners of each parcel to be assessed and will remain in effect until the time the assessment is paid in full. Demands shall be sent and takings made not later than October 1 in the second year following the filing of the Order of Construction and Assessment or, in the case Betterment Assessments apportioned over a period of 20 years, not later than October 1 in the year in which the final payment becomes due. Liens terminate by operation of law two years after the final payment is made in accordance with Chapter 80 of the Massachusetts General Laws.

F. PROPERTY OWNER REMEDIES

Property owners aggrieved by a Betterment Assessment under this Ordinance may seek an abatement by filing an application with the City Council within six months of the date by which the City Collector mailed the assessment notice. **M.G.L. c. 80 § 5.** The City Council has six months from the filing date of the application to review said Application for Abatement and must notify the applicant within 10 days of a decision. Alternatively, and/or simultaneously, the aggrieved owner may bring suit in the Massachusetts Superior Court to challenge the validity of the Assessment in accordance with M.G.L. c 80.

ITEM #4

Chapter 230

Add Chapter 230-23 (D) Sewer Backup Program

D. Sewer Backup Prevention and Cost Sharing Program.

(1) Objective. The intent of this program is to reduce and eventually eliminate sewer surcharging and potential backups into homes/buildings. The removal of the ground water, and wet weather water from the combined sewer system and/or installation of approved sewer backup prevention device(s) will enhance the health and safety of our environment. The reduction/removal of wet

weather flows from the combined sewer system allows for the City to only treat actual sanitary sewer flow and reduces the costs associated with treating sewage for all rate payers.

The Sewer Backup Prevention Program is intended to separate the inflow and infiltration from building footings, foundation drains and roof leader connections from the sanitary sewer system. When heavy rains, continuous wet weather, sudden thunder storms or downpours occur; the combined sewer system may become surcharged. Surcharging is the overflowing or overloading of the designed pipe capacity. The overloading of the pipe causes the incoming flow to slow down and sometimes backup. The causes of the surcharging are attributed to several factors such as: combined one-pipe sanitary and drain sewer system; foundation and footing drains of homes directly connected to the sewer system introducing constant groundwater flow into the sewer system; roof leaders and gutters that are directly connected to the sewer system allowing rain water from outside of the building to enter the sewer system. By removing the outside water sources from the combined sewer system, and/or installation of approved sewer backup prevention devices, the potential for surcharging is reduced considerably during wet weather events.

(2) Authority. The Commission is authorized to establish the Sewer Backup Prevention and Cost Sharing Program, and promulgate administrative rules and policies to implement the program.

(3) Program Elements. The program must contain the following elements:

- (a) Description and overview of the Program
- (b) Criteria to be used by the City to determine eligibility for the Program.
- (c) Applicant responsibilities and Program Application
- (d) Reimbursable costs.
- (e) City and Property Owner Agreement
- (f) Cost sharing of 75% of eligible costs, up to a maximum \$2,000 per application.
- (g) Participation is limited to one approved reimbursement per address.

(4) Funding. The Sewer Backup Prevention and Cost Sharing Program is to be funded by appropriation to the dedicated line item for this purpose in the Public Utilities budget. Cost sharing will be on a first completed application first served basis, with participation limited by each fiscal year funding.

ITEM #5

Delete Handicap Parking - 98 Woodbridge Road

ITEM #6

Delete 61-2 Other responsibilities

The City Messenger shall:

A.

Be custodian of the City Hall and Annex, the public safety complex, the Little Red School House, the library and fire station, the public building on Britton Street and the C&ROP building on Center Street. The City Messenger shall, under the direction of the Mayor, be custodian of all City buildings listed above. He shall be responsible for the maintenance of the buildings and grounds and have charge of all employees and records pertaining to the same.

B.

Prepare rooms selected for polling places and have equipment available in due time for the proper conduct of elections.

§ 61-3 Assistants.

The Assistant City Messenger and all other employees having the care and maintenance of the City Hall buildings and grounds shall be responsible to the City Messenger, under the direction of the Mayor.

§ 61-4 Retention of certain fees.

The City Messenger shall in no case receive any fee, other than his salary, for his services in or about the City buildings, except for services at balls, fairs or festivals, rendered after the hour of 9:00 p.m. and any such fees received by him may be retained by him as his own property.

§ 61-5 Subdivision and assignment of parking spaces.

The City Messenger is directed to subdivide, line and number the municipal parking lot adjoining the City Hall Annex into 26 parking spaces, two designated for handicapped parking. The remaining parking spaces shall be assigned by the City Messenger for the use of municipal departments.

ITEM #7

Chapter 95

Add the following to the end of 95-1 A

The City Council may exempt any vehicle from this Section by majority vote of the full City Council.

To read:

- A. All motor vehicles owned and operated by the City of Chicopee shall be painted and marked as follows:
 - (1) Color: federal highway safety yellow or chrome yellow or equal, except that the Superintendent of Schools, the Superintendent of the Water Department, the Superintendent of Parks and Recreation, the Supervisor of Motor Equipment, the City Engineer, the Assessor, the Superintendent of the Department of Public Works, the Building Commissioner, the City Treasurer, Sealer of Weights and Measures, three recycling vehicles, all used recycled City vehicles which are not currently federal highway safety yellow or equal that are accepted into the general fleet, one flatbed truck (recycling fleet), recycling vehicle received from the Department of Environmental Protection, municipal home vehicle, the library vehicle, Council on Aging vehicles and the central maintenance service truck shall be exempt from this requirement. The City Council may exempt any vehicle from this Section by majority vote of the full City Council.

ITEM #8

926 Chicopee Street - Handicap Parking

ITEM #9

Paul Street - at the intersection of Paul Street and Wallace Street - Isolated Stop Sign

ITEM #10

Minutes - May 14, 2019