

CHAPTER 151: LAND USE

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GENERAL PROVISIONS

§ 151.01 SPECIAL ASSESSMENTS AND TAX FORFEITED LANDS.

(A) *Special assessments and tax forfeited lands.*

(1) When a parcel of tax forfeited land is returned to private ownership, and the parcel is benefitted by an improvement for which special assessments were canceled because of the forfeiture, the city may make a re-assessment or a new assessment as to the parcel in the amount remaining unpaid on the original assessment.

(2) In the event of re-assessments or new assessments under this section, the following subdivisions shall apply.

(a) *Assessment as to land parcels.* Each parcel shall be assessed in an amount equal to the unpaid balance on the original assessment of \$1,438.20 plus 7%

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each year for each year from the date of the original assessment until the date that the property became tax forfeited property.

(b) *Waiver and certification.* The new owner must sign a waiver of public hearing and assessments and the amount will be certified to the County Auditor for collection. In the event that a property owner does not sign the waiver, there shall be a public hearing concerning the assessment amount pursuant to M.S. Chapter 429 *et seq.*, as it may be amended from time to time.

(B) *Re-assessments and tax forfeited lands.* When an assessment or re-assessment is, for any reason whatsoever, set aside by a court of competent jurisdiction as to any parcel or parcels of land, or in the event that the Council finds that the assessment or any part thereof is excessive or determines on advice of the City Attorney that the assessment or proposed assessment or any part thereof is or may be invalid for any reason, then the Council may, upon notice and hearing as provided for the original assessment, make a re-assessment or a new assessment as to the parcel or parcels.

(Ord. 44, passed 10-2-2000)

CARTWAYS

§ 151.15 SCOPE OF SUBCHAPTER.

Except as otherwise specifically provided herein, the method of establishing cartways, as provided herein, shall apply to all property located within the City of Breezy Point. The City of Breezy Point has determined that it is in the best interests of the city that all cartway petitions be submitted to and determined by the City of Breezy Point in a manner which is consistent with Minnesota Law, as amended.

(Ord. 10-01-06, passed 10-2-2006)

§ 151.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

CITY. City of Breezy Point.

DAMAGES. The monetary value, if any, of the damages that the establishment of a cartway will cause to the owners in question, based upon the fair value of the land

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that is subject to the cartway, and the economic affect of the cartway on the land that is not subject to the cartway, less the monetary value of the benefit, if any, that the establishment of the cartway will confer on the property owners in question. **DAMAGES** also include the costs of the city associated with the cartway proceeding. (Ord. 10-01-06, passed 10-2-2006)

§ 151.17 ESTABLISHMENT OF CARTWAY PROCEDURE.

The following procedure shall be followed for all petitions for the establishment of a cartway within the city.

(A) Within the city, a property owner who owns a tract of land containing at least five acres, who has no access thereto except over a navigable waterway or over the lands of others, or whose access thereto is less than two rods in width, may present a petition for the establishment of a cartway to the City Council.

(B) The petition must be signed by the owner of the tract of land requesting a cartway. The petition must contain the following:

- (1) A clear statement requesting a cartway;
- (2) The size and description, including legal description, of the land to be served;
- (3) A statement identifying the necessity or the request for a cartway;
- (4) The name and address of the property owner(s) of the property over which the cartway is proposed to be crossed; and
- (5) A survey of the parcel that will be using the cartway as access, showing, at a minimum:
 - (a) All structures located on the parcel;
 - (b) The width of cartway desired;
 - (c) The desired route for the cartway;

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(d) The legal description of the tract of land over which the proposed cartway shall cross, including its point of beginning, general course and termination;

(e) All parcels of property within 500 feet of the proposed cartway; and

(f) The location of all structures, roads or driveways located on parcels of property within 500 feet of the proposed cartway.

(C) The petitioning party is required to pay all costs related to the establishment of the cartway, including any damages that must be paid to the owner of the land upon which the cartway is established, together with the costs of all of the city's professional and other services, hearing costs, administrative costs, recording costs and other costs and expenses that the city may incur in connection with the proceeding for the establishment of the cartway.

(D) The City Administrator shall determine whether the petition is sufficient, and the City Administrator, with the assistance of other members of city staff, shall recommend the amount of the bond which is necessary to be filed by the petitioner. The Council may pass a resolution directing a bond to be filed by the petitioner for the amount of damages, as provided above, before proceeding further.

(E) The petitioning party shall post a bond or other security acceptable to the city for the total estimated damages, including damages as referred to in division (D) above, plus all costs to be incurred by the city before the Council will take action upon the petition.

(F) The City Council will set a date for a public hearing regarding the establishment of the cartway. Prior to the public hearing, the City Council may refer the matter to the City Planning Commission for further study, input and/or recommendations. The public hearing(s) may be held at the Breezy Point City Hall, or the other place as the Council deems appropriate, and the Council or Planning Commission may review the property to determine if the proposed location of the cartway is adequate, or if an alternative route other than that petitioned for is deemed by the city to be less disruptive and damaging to the affected land owners and in the public's best interest.

(G) The City Council may appoint one or more of its members to meet with the affected parties to determine if a resolution and agreement can be reached regarding

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the damages issues.

(H) (1) Notice of the hearing regarding the cartway shall be posted by petitioner at least ten days prior to the hearing on the cartway. This notice is to be posted at City Hall. Further, notice of the cartway hearing shall be served by the petitioner, or his or her agents, personally, upon all affected parties, including the owner of the land over which the cartway is proposed, as well as all property owners who own land adjacent to the proposed cartway. The notice to be provided to parties shall include the following:

(a) Notice of the time, date and place of the hearing upon the cartway petition;

(b) A description, as near as practicable, of the cartway proposed to be established and each tract of land through which it is proposed to pass; and

(c) Summary of the cartway proceeding to date.

(2) The petitioner shall provide an affidavit of the service and posting showing that this has been accomplished.

(I) At a hearing regarding the establishment of a cartway, the petitioning party and the affected land owner may present whatever evidence he or she deems necessary concerning the request for the petition and the damages, if any, to be awarded to the land owner over whose land the proposed cartway is to be established. The City Council shall determine the amount of damages to be awarded and may choose to retain professionals to assist it with the determination.

(J) Following the hearing described above, the City Council, by resolution, will determine the appropriate route for the cartway, and the amount of damages to be paid by the petitioning party, including damages, if any, awarded to the owner of the land upon which the cartway is established, together with the costs of professional and other services, hearing costs, administrative costs, recording costs and other costs and expenses that the city may occur in connection with the proceeding for the establishment of the cartway.

(Ord. 10-01-06, passed 10-2-2006)

§ 151.18 SURVEYS.

The City Council may direct a surveyor to enter the land over which a cartway is

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proposed to be located for the purposes of providing a legal description of the cartway and to mark the location of the cartway.

(Ord. 10-01-06, passed 10-2-2006)

§ 151.19 EXPENDITURE OF CITY FUNDS.

The city may not expend street or bridge funds on the cartway unless the City Council, by resolution, determines that an expenditure is in the public interest. If no resolution is adopted to that affect, all grading or other construction work and the maintenance of the cartway is the responsibility of the petitioner.

(Ord. 10-01-06, passed 10-2-2006)

§ 151.20 CARTWAYS AS PRIVATE DRIVEWAY.

After a cartway has been constructed, the City Council may, by resolution, designate the cartway as a private driveway with the written consent of the affected land owners, in which case from the effective date of the resolution, no city road or bridge funds may be expended for the maintenance of the cartway.

(Ord. 10-01-06, passed 10-2-2006)

§ 151.21 CARTWAY MAINTENANCE COSTS.

(A) When a cartway is not maintained by the city, one or more of the private property owners who own land adjacent to a cartway, or one or more of the private property owners who have no access to the owners land except by way of the cartway, may maintain the cartway.

(B) The cost of maintenance is to be equitably divided among all of the private property owners who:

(1) Own land adjacent to the cartway; and

(2) Have no access to their land except by way of the cartway.

(C) Proper cost of the maintenance and the proper allocation of the cost is a matter to be determined by and between the parties involved and not by the city; however, the City Council may determine the maintenance cost to be apportioned to each private property owner if the private property owners cannot agree on the division of the costs.

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(D) If the Council decides the issue of maintenance costs, the Council's decision may be appealed within 30 days to the Crow Wing County District Court.

(E) Private property owners who pay the cost of maintenance have a civil cause of action against any of the private property owners who refuse to pay their share of the maintenance costs.

(Ord. 10-01-06, passed 10-2-2006)

§ 151.22 APPEALS TO DISTRICT COURT.

The petitioner or any affected property owner may appeal the City Council's decision to the Crow Wing County District Court, within 40 days after the filing of the award of damages by filing a notice of appeal with the Crow Wing County Administrator. The owner or occupant of the land over which the cartway is to be established must file the notice of appeal within ten days in order to delay the opening, construction, alteration, change or other improvement in or on the road. A copy of the notice of appeal shall be mailed by registered or certified mail to the City Clerk-Treasurer and the petitioner. The notice of appeal shall specify the award or failure to award appealed from the land to which it relates, the nature and amount of the claim of the appellant and the grounds of the appeal. The appeal shall proceed in Crow Wing County District Court.

(Ord. 10-01-06, passed 10-2-2006)