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Title: Amending Chapter 64 of the Administrative Code to update deferral language, delete sewer separation references, and update assessment procedures.

Sponsors: Rebecca Noecker

Indexes:

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Date	Ver.	Action By	Action	Result
11/22/2021	1	Mayor's Office	Signed	
11/17/2021	1	City Council	Adopted	Pass
11/10/2021	1	City Council	Laid Over to Final Adoption	Pass
11/3/2021	1	City Council	Laid Over to Second Reading	

Amending Chapter 64 of the Administrative Code to update deferral language, delete sewer separation references, and update assessment procedures.

WHEREAS, per Minnesota Statutes, Section 435.193, any county, statutory or home rule charter city, or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homesteaded property; and

WHEREAS, this law requires that in order to defer such assessments, cities must pass an ordinance or resolution, to permit deferral of special assessments for persons owning and homesteading property who are sixty-five (65) years of age or older; or retired by virtue of a permanent and total disability, or who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, for whom it would be a hardship to make payments on special assessments levied upon said homesteaded property; and

WHEREAS, the City adopted an ordinance pursuant to Minnesota Statutes, Section 435.193, Saint Paul Administrative Code Chapter 64, which states any person sixty-five (65) years of age or older, or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments, owning and homesteading property, and which person meets the qualifications of hardship as defined herein, may defer assessments levied under Chapter 64; and

WHEREAS, the Council now desires to add military persons to its eligibility list and to clarify the procedures to be followed and the types of assessments that are eligible for deferral, leaving unchanged the definition of hardship; and

WHEREAS, the Council desires to revise Chapter 64 to clarify notice and public hearing procedures, and make procedures among similar ordinances the same; now, therefore,

The City Saint Paul does ordain that Chapter 64, Levying and Collection of Special Assessments for Local

Improvements, is hereby amended to read as follows:

SECTION 1

Section 64.01. is hereby amended to read as follows:

~~Sec. 64.01. – Calculation, report.~~

~~Following adoption of the final order and completion of the public improvements authorized, the departments involved shall calculate all of their costs incurred in the making of the improvements, including construction costs, engineering, inspection and administrative costs, and shall forthwith submit such calculations to the real estate section of the office of financial services (hereinafter referred to as the real estate section). The real estate section shall then add to these costs all expenses incurred by it in sending out notices, land acquisition costs and all other charges incurred in the making of the public improvements. The real estate section shall submit a written report to the council setting forth the total cost of the improvements, the amount of public funds allocated to be paid by the city other than the amount, if any, which it will pay as a property owner, and the amount to be assessed. In addition to the report, the real estate section shall prepare a proposed assessment roll which shall set forth the recommended amount to be assessed against each assessable lot, piece or parcel of land deemed to be benefitted from the improvement, which proposed assessment roll shall be maintained on file and be open to public inspection in the real estate section.~~

SECTION 2

Sec. 64.01. - Definitions.

For the purpose of this chapter, the terms defined will have the following meaning:

- (a) *Local improvement* means the improvements authorized by Minnesota Statute, Section 429.021 and by Chapter 14 of the City Charter.
- (b) *Benefited* means properties that benefit from a local improvement that is ordered to be made by the city council pursuant to Minnesota Statute, Section 429.021 or Chapter 14 of the City Charter.

Section 64.02. is hereby amended to read as follows:

~~Sec. 64.02. – Notice, public hearing.~~

~~Upon receipt of the report and notice of filing of the proposed assessment roll, the council by resolution shall fix a date for public hearing and shall direct the real estate section to publish and mail the required notices of public hearing prescribed by section 14.01.1 of the City Charter. For the purpose of giving mailed notice, owners entitled thereto shall be those shown to be such on the records of the real estate section, but other appropriate records may be used for this purpose. Notices shall state the date, time and place of the public hearing, the general nature of the improvement, the area and amount to be assessed against each parcel of land, that the proposed assessment roll is on file in the real estate section, and that written or oral objections by any owner will be considered.~~

Sec. 64.02. - Council approves annual local improvements.

The council will each year, as part of the annual budget process, determine what local improvements will be performed, together with the estimated amount to be levied against benefited property. The council will by resolution determine the improvements to be performed and will authorize the doing of the work by the appropriate city department or agency.

SECTION 3

Section 64.03. is hereby amended to read as follows:

~~Sec. 64.03. – Adoption of assessment roll.~~

At the council hearing on the proposed assessments, or at any adjournment thereof, the council shall hear all persons relative to the proposed assessments. Having heard all persons, the council may by resolution adopt the proposed assessments, with or without amendments, as special assessments against the lands named in the assessment roll. All assessments shall be payable in equal annual installments extending over such period, not exceeding twenty (20) years, as the resolution shall determine. The assessments, with accruing interest, shall be a lien upon all private and public property from the effective date of the resolution adopting the assessments. The number of installments need not be uniform for all assessments included in a single assessment roll if uniform criteria for developing the number of installments are provided by the resolution.

Sec. 64.03. - Cost records.

Following adoption of the final order and completion of the public improvements authorized, the departments involved will keep a record of the cost of the improvements, including construction costs, engineering, inspection and administrative costs, the name and address of the owner of the property benefited and the date(s) of the service(s) and improvements provided. The cost records will be reported to the office of financial services, real estate section.

The real estate section will then add to these costs all expenses incurred by it in sending out notices, land acquisition costs, and all other charges incurred in the making of the local improvements. The real estate section will give notice to the owner of the property for the cost of the local improvements provided. The real estate section will retain a copy of all correspondence regarding local improvements rendered and invoices sent.

SECTION 4

Section 64.04. is hereby amended to read as follows:

~~Sec. 64.04. – Interest, installments; certification to county department of property taxation.~~

(a) All assessments shall bear interest at a rate as determined by the city's "pool rate" or borrowing rate if bonds were used to finance the improvement, as set by the treasury manager at the time the assessments are ratified by the city council. For assessments for new street construction, street reconstruction, seal coating and mill and overlay projects a flat fee will be charged to cover the city's costs related to the assessment as determined by the real estate manager and treasury manager. For all other assessments, an additional interest factor will be charged to cover the city's costs related to the assessment as determined by the real estate manager and treasury manager.

Sec. 64.04. - Assessment procedure.

Any local improvement charges levied or imposed under this chapter will be collected in the following manner.

(a) *Resolution approving total, setting date for public hearing.* The real estate section will notify the city council of the amounts owed by individual properties for local improvements including the addresses of the individual properties and the local improvements provided, the amount of public funds allocated to be paid by the city other than the amount, if any, which it will pay as a property owner, and the amount to be assessed.

- (1) In addition to the report, the real estate section will prepare a proposed assessment roll which sets forth the recommended amount to be assessed against each assessable lot, piece or parcel of land deemed to be benefitted from the improvement, which proposed assessment roll will be maintained on file and be open to public inspection in the real estate section.
- (2) Upon receipt thereof, the council will by resolution fix a date for public hearing at which time the council will consider adopting and levying the local improvement costs. The date of the public hearing will be at least twenty (20) days after the adoption of said resolution.
- (b) Notice of council hearing. Following the adoption of the resolution provided in paragraph (a) above, the real estate section will publish a notice of the hearing in the official newspaper of the city and send notice to all property owners to be assessed at least two (2) weeks prior to the public hearing. The notice will state the following:
 - (1) The date, time, and place of the public hearing;
 - (2) The property to be assessed;
 - (3) The purpose of the hearing, including the local improvements provided that are subject to the proposed assessment, and the amount of the proposed assessment for each individual property;
 - (4) That the full assessment roll is on file with the City Clerk;
 - (5) That adoption by the council of the proposed assessment may be taken at the hearing;
 - (6) That written or oral objections to the assessment by any property owner will be considered;
 - (7) A notice of the right to appeal the assessment to district court and the procedure that will apply to such appeal;
 - (8) That no appeal may be taken as to the amount of any assessment, unless a written objection signed by the affected property owner is filed with the City Clerk prior to the assessment hearing or presented to the Council at the hearing.
 - (9) A notice of the provisions of Minnesota Statutes, Section 435.193-195, and that the assessment may be eligible for a hardship deferral as set forth in Section 64.07 of this chapter; and
 - (10) A notice of the right to prepay the assessment, the person to whom prepayment must be made, whether partial prepayment is authorized, the time within which prepayment may be made without the assessment of interest, and the rate of interest to be accrued if the assessment is not prepaid within the required time period.
- (c) Interest/Fees. All amounts owed will bear an interest rate as determined by the city's "pool rate" as set by the treasury manager at the time the assessment is ratified by the city council plus a factor to cover the city's cost as determined by the city's real estate manager and treasury manager. For assessments for new street construction and street reconstruction projects, a flat fee will be charged to cover the city's costs related to the assessment as determined by the real estate manager and treasury manager and as approved by the council in the resolution adopting the assessment roll. For all other assessments, an additional interest factor will be charged to cover the city's costs related to the assessment as determined by the real estate manager and treasury manager.

Assessments may be paid in whole or in part to the city's office of financial services real estate section without interest being charged if done within thirty (30) days after the adoption of the assessment roll. In the event that less than the total assessment is paid within this thirty-day period, the real estate section shall will calculate the annual installment of the unpaid principal balance in the following manner:

- (a) If the balance due is less than forty dollars (\$40.00), the real estate section shall will consider the entire balance as a single installment;
- (b) If the balance due divided by the period established by the assessment resolution is less than

forty dollars (\$40.00), the real estate section ~~shall~~ will consider forty dollars (\$40.00) to be the annual installment until the entire balance is collected;

- (c) If the balance due divided by the period established by the assessment resolution is greater than forty dollars (\$40.00), the real estate section ~~shall~~ will divide this balance into equal annual installments extending over the period established by the assessment resolution.

- (a) The real estate section ~~shall~~ will certify annually to the county department of property taxation, on the date specified by the county department of property taxation, the total amount of installments of and interest on assessments on each parcel of land in the municipality which are to become due in the following year. To the first installment of each assessment ~~shall~~ will be added interest on the entire assessment from the date of adoption of the assessment roll through December 31 of the year in which the first installment is payable. To each subsequent installment ~~there shall~~ will be added interest for one (1) year on all unpaid installments.

SECTION 5

Section 64.05. is hereby amended to read as follows:

Sec. 64.05. - Collection; balance may be paid to real estate section.

Following certification of the annual installments, the installments of assessments with interest ~~shall~~ will be collected with the real estate taxes by the county department of property ~~tax, records and election services~~ taxation and paid over to the city in the same manner as are other municipal taxes, and ~~shall~~ will be subject to the same penalties, costs and interest charges prescribed by state law as are other municipal taxes. Prepayment of the remaining unpaid balance may be made to the city's real estate section.

SECTION 6

Section 64.06. is hereby amended to read as follows:

Sec. 64.06. - Interest; appeals.

- (a) In the event an assessment as to any piece of property in a public improvement is appealed from in the manner set forth in Minnesota Statutes, Chapter 429 section 14.01.4 of the City Charter, and not set aside by the court, the date from which interest ~~shall~~ will begin to run ~~shall~~ will be the same as governs those assessments in the same public improvement not appealed from.

- (b) Notwithstanding any other provision in this chapter or any other law to the contrary, the payment of assessments, including with the exception of assessments under appeal, ~~shall~~ will be made immediately on the dates and in the manner as provided herein. in section 64.05. In the event an appealing party or appeal is successful in reducing or eliminating the assessment, the city ~~shall~~ will prepare and send a revised invoice to the appealing party. ~~reimburse the appealing party by such reduction or elimination plus the interest the city is collecting as part of that particular assessment.~~

SECTION 7

Section 64.07. is hereby amended to read as follows:

Sec. 64.07. - Deferred assessments generally.

Pursuant to the authority granted by Minnesota Statutes, Section 435.193, any person sixty-five (65) years of age or older, or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments, owning and homesteading property, which property is subject to the levying of a special

assessment after the effective date of this section, and which person meets the qualifications of hardship as defined herein, or under section 64.08 of this Code, may apply for and receive deferred payment of special assessments so levied by making application therefor to the Ramsey County Assessor in accordance with Minnesota Statutes, Section 435.194. Except as otherwise defined under section 64.08 of this Code, a hardship shall be deemed to exist when the average annual payment for all assessments levied against the subject property exceeds one (1) percent of the adjusted gross income of the applicant as evidenced by the applicant's most recent federal income tax return. Deferred assessments shall be subject to interest at the rate specified in section 64.04(a) and as provided in section 64.05 of this Administrative Code. The option to defer payment of special assessments shall terminate and all amounts accumulated, including accrued interest, shall become due upon the occurrence of any of the following events:

- (a) The death of the owner; provided, that the spouse is otherwise not eligible for the benefits hereunder; or
- (b) The sale, transfer or subdivision of the property or any part thereof; or
- (c) If the property should for any reason lose its homestead status.

Pursuant to the authority granted by Minnesota Statutes, Section 435.193 to .195, the assessments levied pursuant to this chapter of the Administrative Code or as specifically authorized for deferment in another Chapter of the Administrative Code, may be deferred for any homestead property that is:

- (a) owned by a person 65 years of age or older or who is retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments; or
- (b) owned by a person who is an active member of the any of the U.S. armed forces, Minnesota National Guard or other military reserves, who is ordered into active military service, as defined in Minnesota Statutes, Section 190.05, subdivision 5b or 5c, as stated in the person's military orders, for whom it would be a hardship to make the payments.

A hardship will be deemed to exist when the amount of all assessments annually levied upon the subject property exceeds one percent (1%) of the household's adjusted gross income, as evidenced by the household's most recent federal income tax return(s).

The homeowner must make application for deferred payment of special assessments on forms prescribed by the city and may be obtained from the office of financial services, real estate section.

The option to defer the payment of special assessments will terminate and all amounts accumulated, plus applicable interest, will become due upon the occurrence of any of the following events: (a) the death of the owner, provided that the spouse is otherwise not eligible for the benefits hereunder; (b) the sale, transfer or subdivision of the property or any part thereof; (c) if the property should for any reason lose its homestead status; or (d) if for any reason the taxing authority deferring the payments will determine that there would be no hardship to require immediate or partial payment.

SECTION 8

Section 64.08. is hereby amended to read as follows:

Sec. 64.08. Deferred assessments; Combined Sewer Separation Program. Deferral of assessments for lead pipe replacement and sewer repair on private property.

The types of assessments authorized by the Minnesota State Legislature for lead pipe replacements and sewer repair on private property are also eligible to be deferred for property owners who qualify for hardship deferrals under Leg. Code Sec. 64.07 (a) and (b).

~~Sec. 64.08. —Deferred assessments; Combined Sewer Separation Program.~~

Statement of purpose and findings of council. The City of Saint Paul has undertaken an extensive program of upgrading and separating its sewers and paving its streets as a result of a state-mandated Combined Sewer Separation Program promulgated pursuant to Minnesota Statutes, Sections 116.16 and 116.162. Owners of homestead properties within an area improved under the Combined Sewer Separation Program may be subject to increased annual costs in the form of storm water utility charges, storm water drainage district assessments, and sewer service rate surcharges together with assessments for capital improvements made under the street paving program necessitated by the sewer separation.

It is the finding of this council that persons sixty-five (65) years of age or older or persons who are retired by virtue of a permanent and total disability owning and homesteading property typically live on limited or fixed incomes and are therefore not able to adapt and plan for additional annual expenses resulting from the ownership of their homestead properties. It is further found that the inclusion of an assessment payment for street improvements made under the street paving in conjunction with all of the other above-referenced annual charges would create a financial hardship for these persons.

Deferred payments. For purposes of an assessment levied as a result of the street paving program under the Combined Sewer Separation Program, hardship shall be deemed to exist when an owner and homesteader has attained the age of sixty-five (65) years or older or who is retired by virtue of a permanent and total disability. Any deferred payment of a special assessment pursuant to this paragraph shall be for a period no longer than twenty (20) years from the date of the approval of the request for deferral. At the end of the twenty-year period or upon the occurrence of any of the events enumerated in section 64.07 of this Code, whichever occurs sooner, all unpaid amounts accumulated, including accrued interest shall become immediately due and payable.

SECTION 9

Section 64.09. is hereby amended to read as follows:

Sec. 64.09. - Pending assessments; advance payments.

The real estate section is authorized to accept advance payments for pending assessments for public improvements approved by the city council but for which the assessments have not been adopted and certified for collection. Advance payments shall ~~will~~ not be less than one and one-half (1½) of the amount of estimated pending assessment or the exact amount for a known assessment. The office of financial services director may adopt regulations governing the receipt of such advance payments, including provision for application of the deposit to the adopted assessment and refund of excess amounts; provided, however, that the city shall will not be required to pay any interest for advance payments.

SECTION 10

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.