

## CHAPTER 428A

## SPECIAL SERVICE DISTRICT PROCEDURES

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**428A.01 SPECIAL SERVICE DISTRICT PROCEDURES; DEFINITIONS.**

Subdivision 1. **Applicability.** As used in sections 428A.01 to 428A.10, the terms defined in this section have the meanings given them.

Subd. 2. **City.** "City" means the city in which the special service district is authorized to be established under a special law.

Subd. 3. **Special services.** "Special services" has the meaning given in the city's enabling legislation.

Special services do not include a service that is ordinarily provided throughout the city from general fund revenues of the city unless an increased level of the service is provided in the special service district.

Subd. 4. **Special service district.** "Special service district" means a defined area within the city where special services are rendered and the costs of the special services are paid from revenues collected from service charges imposed within that area.

Subd. 5. **Gross tax capacity.** "Gross tax capacity" means the gross tax capacity most recently certified by the county auditor before the effective date of the ordinance or resolution adopted under section 428A.02 or 428A.03.

Subd. 6. **Land area.** "Land area" means the land area in the district that is subject to property taxes.

**History:** 1988 c 719 art 5 s 84; art 14 s 1

**428A.02 ESTABLISHMENT OF SPECIAL SERVICE DISTRICT.**

Subdivision 1. **Ordinance.** The governing body of the city may adopt an ordinance establishing a special service district. Only property that is classified under section 273.13 and used for commercial, industrial, or public utility purposes, or is vacant land zoned or designated on a land use plan for commercial or industrial use and located in the special service district, may be subject to the charges imposed by the city on the special service district. Other types of property may be included within the boundaries of the special service district but are not subject to the levies or charges imposed by the city on the special service district. If 50 percent or more of the market value of a parcel of property is classified under section 273.13 as commercial, industrial, or vacant land zoned or designated on a land use plan for commercial or industrial use, or public utility for the current assessment year, then the entire market value of the property is subject to a service charge based on gross tax capacity for purposes of sections 428A.01 to 428A.10. The ordinance shall describe with particularity the area within the city to be included in the district and the special services to be furnished in the district. The ordinance may not be adopted until after a public hearing has been held on the question. Notice of the hearing shall include the time and place of hearing, a map showing the boundaries of the proposed district, and a statement that all persons owning property in the proposed district that would be subject to a service charge will be given opportunity to be heard at the hearing.

Subd. 2. **Notice.** Notice of the hearing must be given by publication in at least two issues of the official newspaper of the city. The two publications must be two weeks apart and the hearing must be held at least three days after the last publication. Not

less than ten days before the hearing, notice must also be mailed to the owner of each parcel within the area proposed to be included in the district. For the purpose of giving mailed notice, owners are those shown on the records of the county auditor. Other records may be used to supply the necessary information. For properties that are tax exempt or subject to taxation on a gross earnings basis in lieu of property tax and are not listed on the records of the county auditor, the owners must be ascertained by any practicable means and mailed notice given them. At the public hearing a person affected by the proposed district may testify on any issues relevant to the proposed district. The hearing may be adjourned from time to time and the ordinance establishing the district may be adopted at any time within six months after the date of the conclusion of the hearing by a vote of the majority of the governing body of the city.

**Subd. 3. Charges; relationship to services.** The city may impose service charges under sections 428A.01 to 428A.10 that are reasonably related to the special services provided. Charges for service shall be as nearly as possible proportionate to the cost of furnishing the service, and may be fixed on the basis of the service directly rendered, or by reference to a reasonable classification of the types of premises to which service is furnished, or on any other equitable basis.

**Subd. 4. Benefit; objection.** Before the ordinance is adopted or at the hearing at which it is to be adopted, any affected landowner may file a written objection with the city clerk asserting that the landowner's property should not be included in the district or should not be subjected to a service charge and objecting to:

(1) the inclusion of the landowner's property in the district, for the reason that the property would not receive services that are not provided throughout the city to the same degree;

(2) the levy of a service charge on the landowner's property, for the reason that the property is exempted under sections 428A.01 to 428A.10 or the special law under which the district was created; or

(3) the fact that neither the landowner's property nor its use is benefited by the proposed special service.

The governing body shall make a determination on the objection within 30 days of its filing. Pending its determination, the governing body may delay adoption of the ordinance or it may adopt the ordinance with a reservation that the landowner's property may be excluded from the district or district service charges when the determination is made.

**Subd. 5. Appeal to district court.** Within 30 days after the determination of the objection, any person aggrieved, who is not precluded by failure to object before or at the hearing, or whose failure to object is due to a reasonable cause, may appeal to the district court by serving a notice upon the mayor or city clerk. The notice shall be filed with the court administrator of the district court within ten days after its service. The city clerk shall furnish the appellant a certified copy of the findings and determination of the governing body. The court may affirm the action objected to or, if the appellant's objections have merit, modify or cancel it. If the appellant does not prevail upon the appeal, the costs incurred shall be taxed to the appellant by the court and judgment entered for them. All objections shall be deemed waived unless presented on appeal.

*History: 1988 c 719 art 5 s 84; art 14 s 2*

#### **428A.03 SERVICE CHARGE AUTHORITY; NOTICE AND HEARING REQUIREMENTS.**

**Subdivision 1. Hearing.** Service charges may be imposed by the city within the special service district at a rate or amount sufficient to produce the revenues required to provide special services in the district. To determine the appropriate rate for a service charge based on gross tax capacity, taxable property or gross tax capacity must be determined without regard to captured or original gross tax capacity under section 469.177 or to the distribution or contribution value under section 473F.08. Service charges may not be imposed to finance a special service if the service is ordinarily

provided by the city from its general fund revenues unless the service is provided in the district at an increased level. In that case, a service charge may be imposed only in the amount needed to pay for the increased level of service. A service charge may not be imposed on the receipts from the sale of intoxicating liquor, food, or lodging. Before the imposition of service charges in a district, for each calendar year, a hearing must be held under section 428A.02 and notice must be given and must be mailed to any individual or business organization subject to a service charge. For purposes of this section, the notice shall also include:

(1) a statement that all interested persons will be given an opportunity to be heard at the hearing regarding a proposed service charge;

(2) the estimated cost of improvements to be paid for in whole or in part by service charges imposed under this section, the estimated cost of operating and maintaining the improvements during the first year and upon completion of the improvements, the proposed method and source of financing the improvements, and the annual cost of operating and maintaining the improvements;

(3) the proposed rate or amount of the proposed service charge to be imposed in the district during the calendar year and the nature and character of special services to be rendered in the district during the calendar year in which the service charge is to be collected; and

(4) a statement that the petition requirements of section 428A.08 have either been met or do not apply to the proposed service charge.

Within six months of the public hearing, the city may adopt a resolution imposing a service charge within the district not exceeding the amount or rate expressed in the notice issued under this section.

**Subd. 2. Exemption of certain properties from taxes and service charges.** Property exempt from taxation by section 272.02 is exempt from any service charges based on gross tax capacity imposed under sections 428A.01 to 428A.10.

**Subd. 3. Levy limit.** Service charges imposed under sections 428A.01 to 428A.10 are not included in the calculation of levies or limits on levies imposed under law or charter.

*History: 1988 c 719 art 5 s 84; art 14 s 3*

#### **428A.04 ENLARGEMENT OF SPECIAL SERVICE DISTRICTS.**

Boundaries of a special service district may be enlarged only after hearing and notice as provided in sections 428A.02 and 428A.03. Notice must be served in the original district and in the area proposed to be added to the district. Property added to the district is subject to all service charges imposed within the district after the property becomes a part of the district if it is property of the type that is subject to service charges in the district. On the question of enlargement, the petition requirement in section 428A.08 and the veto power in section 428A.09 apply only to owners, individuals, and business organizations in the area proposed to be added to the district.

*History: 1988 c 719 art 14 s 4*

#### **428A.05 COLLECTION OF SERVICE CHARGES.**

Service charges may be imposed on the basis of the gross tax capacity of the property on which the service charge is imposed but must be spread only upon the gross tax capacity of the taxable property located in the geographic area described in the ordinance. Service charges based on gross tax capacity may be payable and collected at the same time and in the same manner as provided for payment and collection of ad valorem taxes. Other service charges imposed must be collected as provided by ordinance. Service charges based on gross tax capacity collected under sections 428A.01 to 428A.10 are not included in computations under section 469.177, chapter 473F, or any other law that applies to general ad valorem levies.

*History: 1988 c 719 art 5 s 84; art 14 s 5*

**428A.06 BONDS.**

At any time after a contract for the construction of all or part of an improvement authorized under sections 428A.01 to 428A.10 has been entered into or the work has been ordered done by day labor, the governing body of the city may issue obligations in the amount it deems necessary to defray in whole or in part the expense incurred and estimated to be incurred in making the improvement, including every item of cost from inception to completion and all fees and expenses incurred in connection with the improvement or the financing. The obligations are payable primarily out of the proceeds of the service charge based on gross tax capacity imposed under section 428A.03, or from any other special assessments or nontax revenues available to be pledged for their payment under charter or statutory authority, or from two or more of those sources. The governing body may, by resolution adopted prior to the sale of obligations, pledge the full faith, credit, and taxing power of the city to assure payment of the principal and interest if the proceeds of the service charge in the district are insufficient to pay the principal and interest. The obligations must be issued in accordance with chapter 475, except that an election is not required, and the amount of the obligations need not be included in determining the net debt of the city under the provisions of any law or charter limiting debt.

*History: 1988 c 719 art 5 s 84; art 14 s 6*

**428A.07 ADVISORY BOARD.**

The governing body of the city may create and appoint an advisory board for each special service district in the city to advise the governing body in connection with the construction, maintenance, and operation of improvements, and the furnishing of special services in a district. The advisory board shall make recommendations to the governing body on the requests and complaints of owners, occupants, and users of property within the district and members of the public. Before the adoption of any proposal by the governing body to provide services or impose service charges within the district, the advisory board of the district shall have an opportunity to review and comment upon the proposal.

*History: 1988 c 719 art 14 s 7*

**428A.08 PETITION REQUIRED.**

No action may be taken under section 428A.02 unless owners of 25 percent or more of the land area of property that would be subject to service charges in the proposed special service district and owners of 25 percent or more of the gross tax capacity of property that would be subject to service charges in the proposed special service district file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken under section 428A.03 to impose a service charge based on gross tax capacity unless owners of 25 percent or more of the land area subject to a proposed service charge and owners of 25 percent or more of the gross tax capacity subject to a proposed service charge file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken under section 428A.03 to impose any other type of service charge unless 25 percent or more of the individual or business organizations subject to the proposed service charge file a petition requesting a public hearing on the proposed action with the city clerk. If the boundaries of a proposed district are changed or the land area or gross tax capacity subject to a service charge or the individuals or business organizations subject to a service charge are changed after the public hearing, a petition meeting the requirements of this section must be filed with the city clerk before the ordinance establishing the district or resolution imposing the service charge may become effective.

*History: 1988 c 719 art 5 s 84; art 14 s 8*

**428A.09 VETO POWER OF OWNERS.**

**Subdivision 1. Notice of right to file objections.** Except as provided in section

428A.10, the effective date of any ordinance or resolution adopted under sections 428A.02 and 428A.03 must be at least 45 days after it is adopted. Within five days after adoption of the ordinance or resolution, a summary of the ordinance or resolution must be mailed to the owner of each parcel included in the special service district and any individual or business organization subject to a service charge in the same manner that notice is mailed under section 428A.02. The mailing must include a notice that owners subject to a service charge based on gross tax capacity and individuals and business organizations subject to a service charge imposed on another basis have a right to veto the ordinance or resolution by filing the required number of objections with the city clerk before the effective date of the ordinance or resolution and that a copy of the ordinance or resolution is on file with the city clerk for public inspection.

**Subd. 2. Requirements for veto.** If owners of 35 percent or more of the land area in the district subject to the service charge based on gross tax capacity or owners of 35 percent or more of the gross tax capacity in the district subject to the service charge based on gross tax capacity file an objection to the ordinance adopted by the city under section 428A.02 with the city clerk before the effective date of the ordinance, the ordinance does not become effective. If owners of 35 percent or more of the land area subject to the service charge based on gross tax capacity or owners of 35 percent or more of the gross tax capacity subject to the service charge based on gross tax capacity file an objection to the resolution adopted imposing a service charge based on gross tax capacity under section 428A.03 with the city clerk before the effective date of the resolution, the resolution does not become effective. If 35 percent or more of individuals and business organizations subject to a service charge file an objection to the resolution adopted imposing a service charge on a basis other than gross tax capacity under section 428A.03 with the city clerk before the effective date of the resolution, the resolution does not become effective. In the event of a veto, no district shall be established during the current calendar year and until a petition meeting the qualifications set forth in this subdivision for a veto has been filed.

**History:** 1988 c 719 art 5 s 84; art 14 s 9

#### **428A.10 EXCLUSION FROM PETITION REQUIREMENTS AND VETO POWER.**

The petition requirements of section 428A.08 and the right of owners and those subject to a service charge to veto a resolution in section 428A.09 do not apply to second or subsequent years' applications of a service charge that is authorized to be in effect for more than one year under a resolution that has met the petition requirements of section 428A.08 and which has not been vetoed under section 428A.09 for the first year's application. A resolution imposing a service charge for more than one year must not be adopted unless the notice of public hearing required by section 428A.03 and the notice mailed with the adopted resolution under section 428A.09 include the following information:

(1) in the case of improvements, the maximum service charge to be imposed in any year and the maximum number of years the service charges imposed to pay for the improvement; and

(2) in the case of operating and maintenance services, the maximum service charge to be imposed in any year and the maximum number of years, or a statement that the service charge will be imposed for an indefinite number of years, the service charges will be imposed to pay for operation and maintenance services.

The resolution may provide that the maximum service charge to be imposed in any year will increase or decrease from the maximum amount authorized in the preceding year based on an indicator of increased cost or a percentage amount established by the resolution.

**History:** 1988 c 719 art 14 s 10