

T&PW & W&M/Budget - Your Committee, to whom was referred an ordinance amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks*, by adding thereto a new Chapter 465, establishing the Downtown Business Improvement Special Service District, and having held a public hearing thereon, now recommends:

- a) That said ordinance be given its second reading for amendment and passage;
- b) That the proper City officers be authorized to negotiate and execute a contract with the Minneapolis Downtown Council, its subsidiary, or an approved assignee (District Entity) for the management and service provision in the proposed District, which shall include language that allows the City to submit proposals to provide services to the District, and which shall include a requirement that the District Entity adopt responsible vendor bidding policies; and
- c) That the proper City officers be authorized to negotiate a Memorandum of Understanding with the District Entity regarding the current level of City services provided in downtown Minneapolis.

Colvin Roy moved to amend the report to adopt Findings of Fact regarding a determination on written objections to the proposed Downtown Business Improvement Special Service District, pursuant to Minn. Stat. § 428A.02, subd. 4. Seconded.

Adopted upon a voice vote / by unanimous consent.

The report, as amended, was adopted 12/12/2008.
Approved by Mayor Rybak 12/15/2008.
(Published 12/16/2008)

Ordinance 2008-Or-102, amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks*, by adding a new Chapter 465, *Downtown Business Improvement Special Service District*, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2008-Or-102
By Goodman
Intro & 1st Reading: 11/7/2008
Ref to: T&PW & W&M/Budget
2nd Reading: 12/12/2008
By Goodman

Amending Title 17 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks, by adding a new Chapter 465 relating to Downtown Business Improvement Special Service District.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 465 to read as follows:

**CHAPTER 465. DOWNTOWN BUSINESS IMPROVEMENT
SPECIAL SERVICE DISTRICT**

465.10. Establishment. Pursuant to the authority granted by Minnesota Statutes, Chapter 428A, sections 428A.01 through 428A.10, there is hereby established a Downtown Business Improvement Special Service District (otherwise referred to herein as the "district") wherein services may be furnished of a kind or to a degree not required or performed elsewhere in the city. The district shall consist of the following area:

That part of Section 22, 23, 26 and 27 in Township 29 North, Range 24 West of the 4th Principal Meridian, City of Minneapolis, Hennepin County, Minnesota, described as follows:

Beginning at the intersection of the centerline of 2nd Avenue North right-of-way and the centerline of 2nd Street North right-of-way; thence southeasterly along said centerline of 2nd Street North, to the centerline of Hennepin Avenue right-of-way; thence southwesterly along said centerline of Hennepin Avenue to the intersection of the northwesterly extension of the northeasterly line of Lot 108, Block 6, of Auditors Subdivision No. 137 according to the

plat thereof on file at the County Records office, Hennepin County, Minnesota; thence southeasterly along the extension of said northeasterly line of Lot 108 and its southeasterly extension to the centerline of Marquette Avenue right-of-way; thence northeasterly along said centerline of Marquette Avenue to the intersection of the northwesterly extension of the northeasterly line of Block 12; thence southeasterly along the extension of said northeasterly line of Block 12 and its southeasterly extension to the centerline of 2nd Avenue South right-of-way; thence northeasterly along said centerline of 2nd Avenue South, to the centerline of 2nd Street South right-of-way; thence southeasterly along said centerline of 2nd Street South, to the centerline of Portland Avenue right-of-way; thence southwestwardly along said centerline of Portland Avenue to a line 30.00 feet northeast and parallel with the centerline of Washington Avenue South right-of-way; thence southeasterly along previously described said parallel line to the centerline of Chicago Avenue right-of-way; thence southwestwardly along said centerline of Chicago Avenue and along the centerline of Centennial Place right-of-way to the centerline of 10th Street South right-of-way; thence northwesterly along said centerline of 10th Street South, to the centerline of 4th Avenue South right-of-way; thence southwestwardly and southerly along said centerline of 4th Avenue South, to the centerline of 12th Street South right-of-way; thence westerly and northwesterly along said centerline of 12th Street South, to the centerline of 2nd Avenue South right-of-way; thence southwestwardly along said centerline of 2nd Avenue South, to the centerline of Grant Street East right-of-way; thence westerly along said centerline of Grant Street East, to the centerline of Nicollet Avenue; thence north along said centerline of Nicollet Avenue to the centerline of Grant Street West right-of-way; thence westerly along said centerline of Grant Street West, to the centerline of LaSalle Avenue right-of-way; thence northerly and northeasterly along said centerline of LaSalle Avenue to the centerline of 12th Street South right-of-way; thence northwesterly along said centerline of 12th Street South, to the centerline of Yale Place right-of-way; thence southwestwardly along said centerline of Yale Place to the centerline of Spruce Place right-of-way; thence northwesterly along said centerline of Spruce Place to the centerline of Hennepin Avenue right-of-way; thence northeasterly along said centerline of Hennepin Avenue to the centerline of 11th Street North right-of-way; thence northwesterly along said centerline of 11th Street North, to the easterly right-of-way line of Interstate Highway No. 394; thence northerly and northwesterly along said easterly right-of-way line of Interstate Highway 394 to the centerline of Glenwood Avenue right-of-way; thence easterly along said centerline of Glenwood Avenue to the centerline of 10th Street North right-of-way; thence northeasterly to the intersection of the centerline of 9th Street North right-of-way and the centerline of 2nd Avenue North right-of-way; thence northeasterly along said centerline of 2nd Avenue North, to the point of beginning.

465.20. Special services to be performed; operating plan; service agreement. (a) The special services to be furnished within the district may include:

- (1) Clean and safe programs, including, but not limited to, sweeping, litter pick up, trash removal, sidewalk cleaning, graffiti abatement, snipe and poster bill removal, snow services, security services, closed circuit television (CCTV) systems and monitoring, etc;
- (2) Marketing/promotion/special events, including, but not limited to, event programming, websites, newsletters, etc, district area business recruitment and retention programs, coordination of street markets and street vendors within the district, etc;
- (3) Physical enhancements, including, but not limited to, hanging baskets, landscape planters, trash receptacles, etc;
- (4) Maintenance of enhanced streetscape components above city standard, including, but not limited to, fixtures, sidewalks, electrical and irrigation systems, landscaping, fountains, etc; and
- (5) Management and oversight services and administrative services, including usual and customary start-up and on-going administrative costs.

(b) Each year, prior to imposition of any service charge, the city council will adopt by resolution an operating plan that describes with particularity the special services to be performed. Any physical enhancements to be installed by the district shall be maintained by the district, and to the extent they are not maintained, the city shall have the right to remove them. The district shall not be obligated to maintain any physical enhancements installed by parties other than the district unless and until said maintenance is included in the adopted operating plan. The operating plan, and any amendments that may be made from time to time by subsequent resolution, is hereby incorporated into this ordinance. The special services to be furnished in the district may not include a service that is ordinarily provided throughout the city unless an increased level of the service is provided in the district.

(c) The special services described in the operating plan will be furnished by the Minneapolis Downtown Council, its subsidiary or an approved assignee (the "District Entity"), in accordance with a service agreement to be entered between the District Entity and the city. Notwithstanding any other ordinance provision, the service agreement provided for in this section is hereby exempt from the requirements of the following provisions of the Minneapolis Code of Ordinances: section 18.200 (equal benefits provisions in contracts); section 24.220 (prevailing wage); section 139.50 (non-discrimination and affirmative action provisions in contracts); and Chapter 423 (small and underutilized business enterprise program). Provided, however, that the service agreement shall contain provisions that require the District Entity to do the following:

- (1) When the District Entity seeks competitive bids for special services in the district, in addition to any other bids sought, it shall seek bids from, but not limited to, vendors on a list of small and underutilized businesses provided by the city;
- (2) The District Entity shall have a Modified Affirmative Action Plan that meets City Ordinance section 139.50;
- (3) The District Entity shall notify and extend any benefits offered to its employees based on marital status to employees with domestic partners registered as such pursuant to Minneapolis Code of Ordinances: section 142.30 and shall require its contractors and subcontractors to notify and extend the same benefits to any of their employees providing services to the district; and
- (4) The District Entity shall apply the prevailing wage provisions of section 24.220 to any construction work that requires funding from more than one (1) year's assessment cycle.

465.30. Service charge. The city council hereby finds and determines that the annual costs of providing the services specified in section 465.20 hereof will provide benefits primarily to properties located within the district, rather than to the city as a whole, and that the costs of said services may be recovered by the city by the imposition of service charges to be assessed against properties located within the district pursuant to Minnesota Statutes, sections 428A.01 through 428A.10, and as authorized by any applicable charter, special law, or statutory authority including Minnesota Statutes, Chapter 429, and Laws of Minnesota, 1969, Chapter 499.

465.40. Notice of veto power. Within five (5) days after adoption of this chapter the city clerk shall mail a summary of this chapter to the owner of each parcel included in the district and any individual or business organization subject to a service charge. The notice must meet the requirements of Minnesota Statutes, section 428A.09.

465.50. Imposition of service charge; levy. The service charges shall be levied annually prior to November thirtieth upon properties within the district, in an aggregate sum, which, combined with any property tax levied under section 465.60 hereof, will equal the estimated total costs of the city in providing the services referred to in section 465.20 for the next ensuing calendar year; provided, however, that service charges may be levied in the year 2010 for services rendered or to be rendered during the calendar years 2009 and 2010 and/or services rendered in 2009 may be invoiced by the city finance department in 2009 and then subsequently levied in 2010 for amounts not paid by property owners in 2009. Prior to imposing the service charges for each year, a public hearing shall be held with respect thereto at which all interested persons may appear and be heard. Notice of the public hearing shall be given as required by the applicable notice provisions of Minnesota Statutes, Chapter 428A. The notice of public hearing shall 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;
- (4) a statement that the petition requirements of Minnesota Statutes, section 428A.08 have either been met or do not apply to the proposed service charge; and
- (5) a statement that an owner may appeal an assessment of the service charge to district court including the procedure for appeal.

Within six (6) 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.

465.60. Assessment of service charges. Except as otherwise provided herein, the service charges imposed under sections 465.30 and 465.40 shall be assessed against parcels of real estate within the district in the manner and subject to the procedures provided in Minnesota Statutes, sections 429.061, 429.071 and 429.081; provided that each assessment shall be payable in a single tax year. Pursuant to the provisions of said statutes, within thirty (30) days after the adoption of the assessment, any person aggrieved may appeal to the district court by serving a notice of appeal upon the mayor or city clerk; provided that no appeal may be taken unless the person appealing shall have filed a signed, written, objection with the city clerk prior to the assessment hearing or shall have presented it to the presiding officer at the hearing, unless a reasonable cause shall exist for such person's failure to do so.

465.70. Ad valorem property tax. The city may, in each calendar year, levy a tax on taxable property in the district based upon the assessed value of the property and such tax shall be assessed and collected in the same manner as other property taxes on property located within the district. The tax shall be levied at a rate that will raise an aggregate sum, which, when combined with any service charges levied in the district, will equal the total costs of the city in providing the services specified in this chapter for the next ensuing calendar year; provided, however, that taxes may be levied in the year 2010 for services rendered and to be rendered in the calendar years 2009 and 2010. Prior to the levy of such a tax a public hearing shall be held. The requirements for the public hearing and the notice of public hearing shall be the same as specified in section 465.40 with respect to the levy of special service charges, and the tax may be levied not later than six (6) months after the public hearing by a majority vote of all of the members of the city council.

For purposes of determining the appropriate tax rate, taxable property or value shall be determined under Minnesota Statutes. Property exempt from taxation by Minnesota Statute shall be exempt from such tax.

465.80. Revenue surplus or deficit. In the event that the cost of services rendered in the district in any calendar year exceed the total taxes and service charges levied and collected with respect to such calendar year, an amount necessary to recoup the excess costs shall be levied as taxes, service charges, or both within the next two (2) years; to the extent that the total taxes and service charges exceed the cost of services, the next ensuing year's levy of taxes and service charges shall be decreased by a corresponding amount.

465.90. Limitation. Taxes and service charges may be levied pursuant to this chapter to finance special services ordinarily provided by the city only if the services are provided in the district at an increased level and, then, only in an amount sufficient to pay for the increase.

465.100. Petitions and notices. Petitions and notices required for hearings, petitions, or notices under this chapter, and for the resolution setting any service charges, fees, or rates, shall be in compliance with any applicable petition and notice requirements imposed pursuant to Minnesota Statutes, sections 428A.01 through 428A.10. Except as otherwise provided in Minnesota Statutes Chapter 428A, within five (5) days of adoption of the ordinance or any resolution setting rates or fees, in accordance with Minnesota Statutes, sections 428A.01 through 428A.10, a summary of the ordinance or resolution must be mailed to the owner of each parcel included in the district and any individual or business organization subject to a service charge in the same manner that notice is mailed under Minnesota Statutes, section 428A.02. The mailing must include notice that owners subject to the service charge have a right to veto the ordinance 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.

465.110. Annual reports. During the term of the services agreement referenced in section 465.20, the District Entity shall submit to the city finance officer as soon as practical after each calendar year end but prior to adoption of the next year's budget, an annual report of services activity and an independent audit of financial activity for each calendar year in which services are performed in the district.

465.120. Definitions and construction. The terms used herein shall be defined as provided in Minnesota Statutes, sections 428A.01 through 428A.10 and said statute shall in all respects govern the creation, existence and operation of the district and the manner imposing service charges therein and this chapter shall be construed consistently therewith.

465.130. Notice to Commissioner of Revenue. Within thirty (30) days after adoption of this chapter, the city clerk shall send a copy of this chapter to the Commissioner of Revenue.

465.140. Exemption of certain properties from taxes and service charges. Only property that is classified under Minnesota Statute section 273.12 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 district may be subject to the charges imposed on the district. Property exempt from taxation by Minnesota Statute, section 272.02 is exempt from any service charges based on net tax capacity imposed under this ordinance.

465.150. Expiration of district. The district shall expire five (5) years after the effective date of this chapter unless it is renewed by following the procedure as set forth in Minnesota Statutes, section 428A or as permitted by applicable law.

465.160. Effective date. This chapter shall become effective forty-five (45) days from and after its date of publication in the official newspaper of the City of Minneapolis.

Adopted 12/12/2008.

Absent - Glidden.

Approved by Mayor Rybak 12/15/2008.