



Legislation Text

File #: 17265, Version: 1

**Fiscal Note**

The assessment deferral practices contained in this proposed ordinance revision generally comport with current practices and will have no substantial fiscal impact.

**Title**

Amending Section 4.081 of the Madison General Ordinances to make the requirements of the Deferred Assessments section more clear.

**Body**

DRAFTER'S ANALYSIS: This ordinance amends Section 4.081, the deferred assessment ordinance, to make the requirements of this Section more clear. The existing ordinance has proven confusing in interpretation and application. Pursuant to these amendments, Subdivision (1)(b), along with the corresponding portion of Subdivision (2)(a), regarding deferment of assessments for major industrial developments of ten acres or larger is being deleted as those provisions are no longer applicable. In its place, a new provision, Subdivision (2)(c) is being created that will allow deferment of assessments for Employment Districts, as defined in the City of Madison Comprehensive Plan, in which the City is installing all or part of the necessary infrastructure, and the deferral will facilitate the development of the new Employment District. A need now exists to allow deferment of assessments on these types of properties. Newly created Subdivision (3)(c) will also put a total cap on deferment plus installment payments at eighteen years. Furthermore, newly created Subdivision (4)(b) sets forth exceptions to the immediate payment of assessments upon the occurrence of certain actions listed under Subdivision (4)(a) by allowing for the Common Council to permit installment payments at the later date, the owner to enter into a payment agreement with the City at the later date, and by allowing proportional collection of assessments due. These provisions will allow greater flexibility to address the future needs of the City and the property owner. Finally, Subsection (6) regarding the printing of legal notice of the deferred assessment is being amended as the printing of legal notice is no longer necessary under State or City law. Instead, the provision is being amended to require the deferred assessment(s) to be noted in the schedule of assessments or resolution authorizing the assessments.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 4.081 entitled "Deferred Assessments" of the Madison General Ordinances is amended to read as follows:

**"4.081 DEFERRED ASSESSMENTS.**

- (1) The Common Council of the City of Madison has made the following findings:
  - (a) In the interest of the public health, welfare and safety, it is often necessary to construct certain public improvements in areas which are undeveloped or outside the territorial limits of the City.
  - (b) ~~In the interest of nonresidential economic development, within the City of Madison, high priority for granting a deferment under this section shall be given to properties that lie within the major industrial development areas of the City and which are ten (10) acres in size or larger. The Council recognizes that larger industrial tracts of ten (10) acres or more incur greater holding costs and are more difficult to market than small industrial parcels or large residential acreage or lots.~~
  - (eb) The Council also recognizes certain public improvements may have to be constructed adjacent to property which has been designated a landmark by the City or is adjacent to and could be considered to be ancillary to a landmark. It may also find that the proposed public improvements would be of benefit to the property on which the landmark is sited or the property that is adjacent to and could be considered to be ancillary to the

- landmark only if the property was further improved or subdivided.
- (dc) The Council may find that a property located within the City, less than ten (10) acres in size, with its front and back sides fronting on different streets (not a corner lot), would only be able to have access or connection to the proposed public improvement if the property was further developed or subdivided.
- (2) (a) The Common Council may defer the due date of any special assessment levied against property abutting on or benefited by a public improvement, which abutting property is meets one of the following criteria:
- (a) Is zoned or used for agriculture or;
- (b) Lies outside the City limits; or lies within the major industrial development areas of the City, is ten (10) acres in size or larger, and is zoned exclusively for such development. Such special assessment must be paid, however, within ten (10) years of the date of the resolution making the levy, unless the Common Council permits additional time by allowing payment of the assessment in installments, in which case the assessment shall be paid within the time prescribed by the resolution permitting installment payments.
- (b) ~~The Common Council may defer the due date of any special assessment levied against property abutting on or benefited by a public improvement, which abutting property has been designated a landmark by the City or is adjacent to and could be considered to be ancillary to a landmark, or is a property equal to or less than ten (10) acres in size whose front and back sides have frontage on different streets. Such special assessment must be paid, however, when the property requires access or connection to the public improvement or is subdivided, unless the Common Council permits additional time by allowing payment of the assessment in installments, in which case the assessment shall be paid within the time prescribed by the resolution permitting installment payments.~~
- (3) ~~If the Common Council defers the due date of special assessments under this section, it shall make an annual interest charge on the total deferred assessment not to exceed the rate in effect at the time the assessment was levied and deferred, which charge shall be added to the total assessment for each year of deferral.~~
- (4) ~~Owners of property for which a special assessment has been deferred under this section shall not have use of the improvement until:~~
- (a) ~~The amount of the deferred assessment, including interest due thereon, is paid in full to the City of Madison, or~~
- (b) ~~Such an owner desiring to make use of the improvement shall enter into an agreement with the City to pay the assessment plus accrued interest, plus future interest over a stipulated period of time in equal installments of principal plus variable installments of interest as determined by the City of Madison except that, where approved by the Common Council, only that portion of the total amount of deferred assessment shall be collected as it applies to the portion of the land being developed.~~
- (c) Lies within an Employment District, as defined at page 2-95 of the adopted City of Madison Comprehensive Plan (January 2006), in which the City is installing all or part of the necessary infrastructure, and the Common Council finds that deferral of the assessments will facilitate the development of the new Employment District;
- (d) The property has been designated a landmark by the City or is adjacent to, and could be considered to be ancillary to, a landmark; or,
- (e) The property meets all of the following requirements:
1. Is equal to or less than ten (10) acres in size;
  2. The front and back side of the property both have frontage along a public street;
  3. The property does not take access to the street being assessed or will not be using the improvement until further subdivision or development; and,
  4. Further subdivision or development of the property is reasonably possible such that the lot, or any portion thereof, could access the street or utilize the

- improvements being assessed.
- (3) If the Common Council defers the due date of a special assessment levied against property abutting on or benefited by a public improvement, the following shall apply:
- (a) An annual interest charge on the total deferred assessment shall be added to the total assessment for each year of deferment. The interest rate shall be the rate in effect at the time the assessment was levied and deferred. This interest rate shall be determined as set forth in Sec. 4.08(2), MGO.
- (b) A deferred special assessment must be paid within 10 years of the date of the resolution making the levy, unless the Common Council permits additional time by allowing payment of the assessment in installments, in which case the assessment shall be paid within the time prescribed by the resolution permitting installment payments. If installment payments are authorized after the deferral period, said installment payments are subject to the requirements of this Section, and, to the extent not contrary to this Section, those of Section 4.08.
- (c) The deferral period plus any additional time following the deferral period shall not exceed eighteen (18) years, except if specifically authorized under an approved cooperative plan entered into by the City under Wis. Stat. Sec. 66.0307.
- (4) (a) Except as provided in Subdivision (b), all outstanding deferred assessments on the property, or the remaining balance if installments are being applied following the deferral period, shall be paid in full prior to the occurrence of any of the following actions:
1. The property is connected to the public improvements.
  2. The property takes access to a street for which the assessments were levied and deferred, and the property did not previously take access to the street.
  3. Improvements are made to the property that substantially changes the use of the property.
  4. An undeveloped property is developed.
  5. Non-agricultural related improvements are made to an agricultural property.
  6. The property is subdivided.
  7. The property is sold.
- (b) The requirements for full payment of all outstanding deferred assessments or installment payments of Subdivision (a) do not apply to the following:
1. The Common Council permits additional time for payment of the assessment due by allowing for payment of the remaining assessment in installments. If this occurs, the assessment shall be paid within the time prescribed by the resolution permitting installment payments.
  2. The owner of the parcel enters into an agreement with the City to pay the assessment plus accrued interest, plus future interest over a stipulated period of time, in equal installments of principal plus variable installments of interest as determined by the City.
  3. The Common Council permits collection of the proportional share of the total assessment due against the portion of the property subject to Subdivision (a), while allowing continued deferment or installment payments on the remaining portion of the property not otherwise subject to Subdivision (a).
- (5) Any special assessment deferred under this section shall be a lien against the property assessed from the date of the resolution making the levy.
- (6) Whenever the due date of a special assessment shall be deferred under this section the following note shall be added to the schedule of assessments or resolution: "In accordance with Madison General Ordinance 4.081, the assessment for parcel(s) \_\_\_\_\_ shall be deferred for \_\_\_\_\_ years with interest. Upon completion of the deferment period, payment shall be made with interest in \_\_\_\_\_ equal yearly installments. In the event of certain occurrences as outlined in section 4.081(4), the assessments shall be paid in full prior to the

~~end of the deferral period. a notice shall be published in the official paper substantially as follows:~~

~~DEFERRED ASSESSMENT NOTICE~~

~~Notice is hereby given that the special assessments for improvement of (describe the improvement) have been determined as to each parcel of real estate affected thereby, and a statement of the same is on file with the City Clerk. It is proposed to defer payment of the same with interest thereon (here insert the percent per annum)."~~