Legislation Details (With Text)

File #:	210565	**Version:** 4	**Name:**		
Type:	Ordinance		**Status:**	Agenda Ready	
File created:	6/24/2021		**In control:**	Council	
On agenda:	1/13/2022		**Final action:**		

Title: Amending Chapter 74, Code of Ordinances, by enacting a new Article VII that establishes the City's comprehensive policy for the approval of new community improvement districts and existing community improvement districts; repealing Second Committee Substitute for Resolution No. 120605 and Resolution No. 130844; and setting an effective date of forty-five days after adoption of this ordinance.

Sponsors: Andrea Bough

Indexes:

Code sections:

Attachments: 1. fact sheet, 2. CID Ordinance Fact Sheet - FINAL, 3. Ordinance 210565 Revisions Presentation 091521, 4. CID Ordinance 210565 Revisions Presentation 102021, 5. 20210913-CIDs-Stokes, 6. 210565 2d cs to cs.com, 7. Authenticated Ordinance 210565 2nd C.S, 8. CID Annual Report Cover Letter Signed-JW, 9. CID Annual Report FINAL

Date	Ver.	Action By	Action	Result
1/6/2022	4	Council		
1/5/2022	4	Neighborhood Planning and Development Committee	Do Pass as a 2nd Committee Sub.	Pass
12/15/2021	3	Neighborhood Planning and Development Committee	Hold on Agenda	
12/8/2021	3	Neighborhood Planning and Development Committee	Hold on Agenda	
12/1/2021	3	Neighborhood Planning and Development Committee	Hold on Agenda	
11/3/2021	3	Neighborhood Planning and Development Committee	Hold on Agenda	
10/20/2021	2	Neighborhood Planning and Development Committee	Hold on Agenda	
9/29/2021	2	Neighborhood Planning and Development Committee	Hold on Agenda	
9/15/2021	1	Neighborhood Planning and Development Committee	Hold on Agenda	
8/11/2021	1	Neighborhood Planning and Development Committee	Hold on Agenda	
7/14/2021	1	Neighborhood Planning and Development Committee	Hold on Agenda	
6/30/2021	1	Neighborhood Planning and Development Committee	Hold on Agenda	

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 210565

Amending Chapter 74, Code of Ordinances, by enacting a new Article VII that establishes the City's comprehensive policy for the approval of new community improvement districts and existing community improvement districts; repealing Second Committee Substitute for Resolution No. 120605 and Resolution No.

130844; and setting an effective date of forty-five days after adoption of this ordinance.

WHEREAS, the Community Improvement District Act, Section 67.1401, RSMo., et seq., ("CID Act") allows property owners to voluntarily form a district in which certain taxes and special assessments are levied in return for local benefits; and

WHEREAS, the City Council is charged by the CID Act with conducting a public hearing for determining whether a lawfully petitioned community improvement district ("CID") should be established; and

WHEREAS, Second Committee Substitute for Resolution No. 120605 was adopted by the City Council on March 7, 2013, for the purpose of establishing the City's policy for approval of new CIDs; and

WHEREAS, Resolution No. 130844 was adopted on November 7, 2013, and amended said policy; and

WHEREAS, Resolution No. 200309 was adopted on April 30, 2020, and directed the City Manager to make recommendations to the City's existing CID policy to ensure existing policy adequately reflected Council's priorities and provided sufficient guidance to Council in approving new CIDs; and

WHEREAS, the City Manager engaged and surveyed community stakeholders and presented its recommendations to Council focusing on limiting the sales tax burden, reducing the use of single parcel CIDs, increasing the public benefit, and improving transparency and communication; and

WHEREAS, this ordinance reflects a comprehensive City CID policy that consolidates prior policy directives, recommendations from the audit released by the City Auditor in April of 2021, and adopted resolutions with the City Manager's recommendations; NOW THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the following Resolutions are hereby repealed in their entirety:

(a) Second Committee Substitute for Resolutions No. 120605; and
(b) Resolution No. 130844.

Section 2. That Chapter 74, Code of Ordinances of Kansas City, Missouri, is hereby amended by enacting a new Article VII entitled "Community Improvement Districts" to read as follows:

CHAPTER 74

ARTICLE VII.
COMMUNITY IMPROVEMENT DISTRICTS

Sec. 74-301. Generally.

(a) Purpose. A community improvement district ("CID") is a separate legal entity, either a political subdivision or not-for-profit corporation, which is established to pay for public improvements or private projects through a sales and use tax, special assessment, or real property tax.

(b) Application. The provisions contained in this Article are in addition to any requirements contained in the Community Improvement District Act, Sections 67.1401 to 67.1571, RSMo.

Sec. 74-302. Requirements to Establish a CID.

(a) Petition. The petition shall:

(1) Inform the property owners of the right to initiate a petition to terminate the proposed CID as provided by section 67.1481, RSMo.

(2) Provide that the City Auditor shall have the right to examine or audit the records of the CID and shall require that the CID make such records available to the City Auditor within ten (10) days after a written request for the same is made.

(3) Estimate the revenue to be used for benefits to the public and describe such benefits.

(b) Term. CIDs shall be limited to a term of twenty (20) years. However, if the petition provides that sales tax revenue will be used to repay debt issued to fund capital improvements, blight removal, or both, the term may be up to twenty-seven (27) years.

(c) Blight Determination. Any CID requesting a finding of blight or relying on a prior determination of blight for the purposes of exercising the additional powers under Section 67.1461.2, RSMo., shall submit with its petition:

(1) A blight study, outlining the blighting factors and conditions, which blight study shall have been completed no more than five (5) years prior to the date upon which the petition is submitted to the city clerk, and which shall identify, to the extent reasonably deemed possible by the consultant doing the blight study, the owner(s) of the property at such time as the blighting factors and conditions might reasonably have been determined to first occur and remain unabated;

(2) Information on the maintenance of the property including, among other things, any capital maintenance outlays, during the five (5) years preceding the submission of the petition;

(3) Official documentation notarized by the county wherein the CID is proposed to be located, denoting the total assessed valuation of each parcel located within the proposed CID for each of the five (5) immediately preceding tax years;

(4) A construction budget, with respect to any proposed physical improvements, that is structured to address and remediate the cited blighting factors and conditions identified in the submitted blight study. Such budget shall specify which expenditures are associated with exterior improvements, public improvements, or other improvements; and

(5) A time schedule clearly setting forth timelines for commencement and completion of remediation of cited blighting factors or conditions.

(d) City Manager Execution. The City Manager shall not execute any petition on behalf of the City as a property owner seeking to establish a CID unless authorized by the City Council.

(e) Cooperative Agreement. Each CID shall enter into a cooperative agreement with the City that addresses, among other things, requirements of this article and state statute. If the CID is established as a

political subdivision and takes title to any real property, whether by purchase, gift, grant, bequest, devise or otherwise, the agreement shall address, or shall be amended to address, whether and to what extent the CID shall be required to make payments in lieu of taxes.

Sec. 74-303. Criteria for Review for Establishment of a CID

(a) Prior to approving a petition to establish a CID, City Council shall consider, among other things:

(1) Alignment with City goals expressed in the City's Comprehensive Plan, Area Plans, and economic development policies;

(2) Benefits to the community with preference for petitions that allocate at least ten percent (10%) of the CID's total projected sales tax revenues toward community benefits and services, including blight remediation;

(3) Whether there are any existing CIDs within the boundaries of the proposed CID and if such existing CIDs support the establishment of the proposed CID as evidenced by a letter or similar evidence of support;

(4) The current tax rate and a breakdown of taxes being imposed within the proposed CID boundaries, how the proposed overall tax rate compares to neighboring cities in Missouri, and any impact on the City's ability to impose additional taxes. Such information shall be provided by the Finance Department; and

(5) Whether a shorter term is desirable based upon the nature of improvements and services and the projected budget.

(b) Prior to approving a petition to establish a CID with the additional powers under Section 67.1461.2, RSMo., related to blighted areas, City Council shall consider, among other things:

(1) Whether the completion of exterior improvements and public improvements is prioritized above all other improvements;

(2) Whether any petitioner was the owner of property within the proposed CID boundaries at such time as the blighting factors and conditions might reasonably have been determined to first occur and remain unabated. For purposes of this provision, any current property owner sharing one or more common partners, members, directors or officers with the property owner(s) identified as being responsible for the blighting factors and conditions shall be deemed the same owner(s); and

(3) Whether more than twenty-five percent (25%) of the costs of remediation of blighting conditions located on the interior of any private property shall be funded by public revenues.

(c) Prior to the public hearing to establish a proposed CID, petitioners or their representatives shall provide a detailed letter or memorandum to City Council addressing the criteria contained in this section and City staff shall review submitted materials to verify their satisfaction of the requirements set forth in this article.

Sec. 74-304. Reporting Requirements.

(a) Annual reports and proposed annual budgets submitted to the City as required by Section 67.1471, RSMo., shall, among other things, provide a detailed breakdown of the CID revenue used or to be used toward public infrastructure improvements, exterior improvements, interior improvements, and other improvements and services.

(1) Annual reports shall also include the name and contact information of each current board member to be entered into the City's board and commissions electronic database.

(b) The City Clerk shall notify the City Council by communications to be included on the City Council's agenda each time a CID files its proposed annual budget and annual report with the City Clerk.

(c) City staff shall submit to the City Council, or through one of its committees, on or around November 1 of each year a report indicating the degree of compliance of all CIDs related to their submission of proposed annual budgets and annual reports within the time limits required by Section 67.1471, RSMo., whether the work performed conformed to previously submitted budgets, and whether the CID adhered to the terms of its cooperative agreement with the City. At the time of this report's presentation, a representative of each CID will be given the opportunity to provide a brief report on its activities.

Sec. 74-305. Costs and Fines.

(a) *Costs*.

(1) Annual reimbursement. Within 30 days of the receipt of an invoice from the City, each CID shall reimburse the City for the reasonable and actual expenses incurred by the City to:

a. Review budgets and reports of the CID required to be submitted to the City annually and report to City Council regarding such review.

b. Review and approve the petition of a CID.

c. Review and approve the amended petition of an existing CID.

(2) Reimbursement amount.

a. For a CID established pursuant to this article, the initial reimbursement amount shall be no less than $1000.00 nor exceed $1,500.00 except, however, no reimbursement amount shall exceed one and one-half percent (1.5%) of the revenues collected by the CID in the preceding year.

b. For a CID whose reimbursement amount is only for review of annual submissions, the reimbursement amount shall be no less than $500.00 nor exceed $1,000.00 except, however, no reimbursement amount shall exceed one and one-half percent (1.5%) of the revenues collected by the CID in the preceding year.

c. For an existing CID that amends its petition, the initial reimbursement amount after such amendment shall be no less than $750.00 nor exceed $1,250.00 except, however, no reimbursement amount shall exceed one and one-half percent (1.5%) of the revenues collected by the CID in the preceding year.

(b) *Fines*. Any CID that fails to submit its proposed annual budgets and annual reports within the timeframe required by Section 67.1471, RSMo., shall be subject to a fine of $1,000 for every thirty (30) days delinquent, up to a maximum total fine of $3,000.

(1) *Administrative citation.*

a. Upon a violation, the City Manager or their designee may issue an administrative citation that includes the name of the CID, a description of the violation, the amount of the fine, and notice of the appeal process.

b. Payment of the administrative citation shall be made within 20 days unless a hearing is requested within the 20-day period.

(2) Administrative hearing.

a. The City Manager or their designee shall designate a hearing officer to hear appeals of the administrative citation.

b. The hearing shall occur pursuant to rules prescribed by the City Manager or their designee.

c. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation with reasons for such action. The decision of the hearing officer shall be final without any further right of administrative appeal other than as provided in chapter 536, RSMo.

(c) *Ineligibility*. Any CID with unpaid costs or fines pursuant to this section may be deemed by the City Manager or their designee to be ineligible to:

(1) Amend its petition, including the extension of its term; and

(2) Enter into new City contracts.

Section 3. That Sections 74-302 and 74-303 shall not apply to any proposed CID having submitted its petition to the City Clerk prior to the effective date of this ordinance. Instead, such proposed CID must comply with any City polices in effect prior to the effective date of this ordinance.

Section 4. The effective date of this ordinance shall be forty-five days after adoption of this ordinance.

Approved as to form and legality:

Eluard Alegre
Assistant City Attorney