

**CHAPTER 12**

**Retail Maintenance Districts**

**Article 1 Administration**

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**ARTICLE 1****Administration****Sec. 12-1. Legislative declaration.**

The city hereby finds that the organization of retail maintenance districts having the purposes and powers provided in this chapter will serve a public purpose; will promote the health, safety, prosperity, security and general welfare of the inhabitants thereof, the property owners therein, and the people of the city; will promote the continued vitality of commercial business areas within the city; and will be of special benefit to the property within the boundaries of any district created pursuant to this chapter. (Ord. 443 §1, 1994)

**Sec. 12-2. Definitions.**

*District* means a retail maintenance district formed pursuant to this chapter.

*Elector* means a natural person who is a citizen of the United States and a resident of the state, who is eighteen (18) years of age or older, and:

- (1) Whose primary dwelling place is in the district;
- (2) Who owns taxable real or personal property within the boundaries of the district;
- (3) Who is the holder of a leasehold interest in taxable real or personal property within the boundaries of the district; or
- (4) Who is the natural person designated by an owner or lessee of taxable real or personal property in the district which is not a natural person to vote for such owner or lessee. Such designation must be in writing and filed with the secretary of the district. Only one (1) such person may be designated by an owner or lessee.

Nothing in this subsection shall permit an elector to cast more than one (1) vote.

*Improvements* means all public improvements including, but not limited to, streets, sidewalks, curbs, gutters, street lights, drainage facilities, landscaping, open space, decorative structures, signage, traffic devices, off-street parking, utilities, and all pertinent structures and improvements, and shall mean all common area private improvements within the district, including, but not limited to, open and enclosed pedestrian malls, off-street parking, off-street loading, directional signage, access roads, driveways, retaining walls, exterior boundary walls and fences, water, sanitary, storm sewer, gas, electric, telephone and other utility lines and systems and facilities, landscaped areas, courts, sidewalks, pylon and directory equipment, and all other exterior areas for the joint use and benefit of the occupants of the retail project. (Ord. 443 §1, 1994)

**Sec. 12-3. Authority of city council.**

The city council may, by ordinance, create and establish one (1) or more districts within the boundaries of the city pursuant to the provisions of this chapter, and such districts shall have all the powers provided in this chapter except as specifically limited by the ordinance creating the district.

When the approval of the city is required by this chapter, such approval shall be given by the city council. (Ord. 443 §1, 1994)

**Sec. 12-4. Organizational procedure.**

- (a) The organization of a district shall be initiated by a petition filed in the office of the city clerk.
- (b) The petition shall be signed by persons who own real or personal property in the proposed district having a valuation for assessment of not less than fifty percent (50%) of the valuation for assessment of all real and personal property in the proposed district and who own at least fifty percent (50%) of the acreage in the proposed district. The petition shall set forth:
  - (1) The name of the proposed district, which shall include a descriptive name and the words *retail maintenance district*;
  - (2) A description of the boundaries of the proposed district;
  - (3) A general description of the types of services or improvements or both to be provided by the proposed district;
  - (4) The names of three (3) persons to represent the petitioners, who have the power to enter into agreements relating to the organization of the district; and
  - (5) A request for the organization of the district. (Ord. 443 §1, 1994)

**Sec. 12-5. Notice of hearing.**

The city council, as soon as possible after the filing of the petition, shall fix the place and time, not less than ten (10) days nor more than forty (40) days thereafter, for a hearing thereon. Thereupon, the city clerk shall cause notice by publication to be made of the pendency of the petition, of the boundaries, improvements and services of the proposed district and of the time and place of hearing thereon. The city clerk shall also cause a copy of said notice to be mailed by first class mail to each property owner within the boundaries of the proposed district at his or her last known address, as disclosed by the tax records of the county or counties in which the municipality is located. (Ord. 443 §1, 1994)

**Sec. 12-6. City council – Board of directors – Conflicts.**

No member of the city council and no member of the board of directors of the district shall be disqualified to perform any duty imposed by this chapter by reason of direct or indirect ownership of property within the boundaries of any proposed district, by reason of any relationship to any person who owns property within the proposed district or service area, or by reason of ownership of or employment by any entity which owns property within the proposed district. (Ord. 443 §1, 1994)

**Sec. 12-7. Hearing – Findings – When action barred.**

(a) On the date fixed for such hearing or at any adjournment thereof, the city council shall cause to be ascertained, from the county tax rolls, the total valuation for assessment of the taxable real and personal property in the district and the classification of taxable property. If it appears that said petition is not signed in conformity with this chapter, the city council shall dismiss the petition and adjudge the

cost against those executing the bond or depositing the cash filed to pay such costs. Nothing in this section shall prevent the filing of a subsequent petition for a similar district.

(b) The findings of the city council upon the question of the genuineness of the signatures and all matters of fact incident to such determination shall be final and conclusive.

(c) If it appears that an organization petition has been duly signed and presented in conformity with this chapter, that the allegations of the organization petition are true, and that the types of services or improvements to be provided by the proposed district are those services or improvements which best satisfy the purposes set forth in this chapter, the city council, upon the completion of the hearing, shall, by ordinance, adjudicate all questions of jurisdiction and may declare the district organized, describe the boundaries of the district, and give it the corporate name specified in the petition by which, in all subsequent proceedings, it shall thereafter be known. The district shall thereafter be a quasi-municipal corporation and political subdivision of the state with all powers and responsibilities thereof, subject to the charter and ordinances of the city.

(d) Such ordinance shall finally and conclusively establish the regular organization of the district against all persons unless an action, including an action for certiorari review, attacking the validity of the district is commenced in a court of competent jurisdiction within thirty (30) days after the effective date of such ordinance. Thereafter, any such action shall be perpetually barred. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding, except as provided in this subsection. (Ord. 443 §1, 1994)

#### **Sec. 12-8. Boundaries – Exclusion provision.**

(a) The boundaries of a district may consist of contiguous or noncontiguous tracts or parcels of commercial property. No property shall be included within the boundaries of the district which is not commercial property. No district may be organized wholly or partly within any other existing retail maintenance district.

(b) Notwithstanding any provision of this chapter to the contrary, no tract of land which is classified for property tax purposes as residential or agricultural shall be included in the boundaries of any district. No personal property which is situated upon real estate not included in the boundaries of a district shall be included within such district. If, contrary to the provisions of this section, any such tract, parcel or personal property is included in the boundaries of any district, the owners thereof, on petition to the city council, shall be entitled to have such property excluded from such district free and clear of any contract, obligation, lien or charge to which it may be liable as a part of such district. (Ord. 443 §1, 1994)

#### **Sec. 12-9. Board of directors – Duties.**

(a) The board of directors of the district shall be appointed by the city council. The district shall have a governing board of five (5) members, three (3) of whom shall be owners of real property within the district or representatives of owners of such property or officers of corporations which are owners of such property, and two (2) of whom shall be registered electors of the city or employees or elected officials of the city. At least three (3) affirmative votes shall be required for any action by the board.

(b) The board shall adopt a seal. The secretary shall keep, in a well-bound book, a record of all proceedings, minutes of meetings, certificates, contracts and corporate acts of the board. The treasurer shall keep permanent records containing accurate accounts of all money received by and disbursed for and on behalf of the district and shall make such annual or other reports to the city as it may require. All budgets and financial records of the district shall be kept in compliance with Parts 1 and 5 of Article 1 of Title 29, C.R.S.

(c) Upon notice to each member of the board, the board shall hold meetings, which shall be held in a place to be designated by the board as often as the needs of the district require. The meetings of the board shall be subject to the provisions of Part 4 of Article 6 of Title 24, C.R.S. The board shall act only by resolution or motion.

(d) The records of the district shall be subject to the provisions of Part 2 of Article 72 of Title 24, C.R.S., and shall promptly be made available to the city upon request. (Ord. 443 §1, 1994)

**Sec. 12-10. General powers of district.**

(a) Except as limited by charter and ordinances of the city, the district shall have the following powers:

- (1) To have perpetual existence;
- (2) To have and use a corporate seal;
- (3) To sue and be sued and be a party to suits, actions and proceedings;
- (4) To enter into contracts and agreements affecting the affairs of the district;
- (5) To borrow money and incur indebtedness for the purposes of the district and evidence the same by certificates, warrants, notes and debentures and to issue negotiable bonds in accordance with the provisions of this chapter;
- (6) To provide any of the following services within the district:
  - a. Consulting with respect to planning or managing development activities;
  - b. Maintenance of improvements, by contract;
  - c. Promotion or marketing of district activity;
  - d. Organization, promotion, marketing and management of public events;
  - e. Activities in support of business recruitment, management and development;
  - f. Security for businesses and public areas located within the district;
  - g. Snow removal or refuse collection, by contract; and
  - h. Providing design assistance;

(7) To acquire, construct, finance, install and operate the improvements contemplated by this chapter and all property, rights or interests incidental or appurtenant thereto and to dispose of real and personal property and any interest therein, including leases and easements in connection therewith;

(8) To have the management, control and supervision of all the business and affairs of the district and of the acquisition, construction, financing, installation and operation of district improvements and the financing and operation of district services therein;

(9) To fix, and from time to time increase or decrease, rates, tolls or charges for any services or improvements furnished by the district. The board may pledge such revenue for the payment of any bonds of the district. Until paid, all rates, tolls or charges shall constitute a perpetual lien on and against the commercial property served within the boundaries of the district, and any such lien on personal property or any such lien on real property may be foreclosed in the same manner as provided in Article 20 of Title 38, C.R.S., or Article 22 of Title 38, C.R.S., respectively. The board may shut off or discontinue service for delinquencies in the payment of such rates, tolls or charges or for delinquencies in the payment of taxes levied pursuant to this chapter and shall prescribe and enforce rules and regulations for connecting with and disconnecting from such services and facilities.

(10) To hire employees or retain agents, engineers, consultants, attorneys and accountants;

(11) To adopt and amend bylaws not in conflict with the constitution and laws of the state or with the charter and ordinances of the city for carrying on the business, objects and affairs of the board and of the district; and

(12) To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter.

(b) Under no circumstances shall any bond, note, warrant, certificate, contract or other financial obligation of a retail maintenance district be held to be an indebtedness, obligation or liability of the city. Each such bond, note, warrant, certificate, contract or financial obligation of such a district shall contain a statement to that effect.

(c) Under no circumstances shall any retail maintenance district have any power to levy or impose any tax without approval of the registered electors in the manner required by Article X, Chapter 20 of the state constitution. (Ord. 443 §1, 1994)

#### **Sec. 12-11. Correction of faulty notices.**

In any case that a notice is provided for in this chapter in which the city council finds for any reason that due notice was not given, the city council shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated; but the city council, in that case, shall order due notice given and shall continue the proceeding until such time as notice is properly given and thereupon shall proceed as though notice had been properly given in the first instance. (Ord. 443 §1, 1994)

#### **Secs. 12-12—12-29. Reserved.**

