



Legislation Text

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[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 240045

Sponsor: Mayor Quinton Lucas
COMMITTEE SUBSTITUTE

Amending Chapter 74, Code of Ordinances, by repealing Article III, "Tax Increment Financing" and enacting in lieu thereof a new article of like number and subject matter to address statutory provisions recently applicable to TIF plans, projects, and commissions in Clay County; and directing the City Manager to solicit the consent of various municipalities as to appointment of municipal representatives to the Clay County KC TIF Commission; authorizing the Administrative Commission to assume certain rights and responsibilities; and authorizing the City Manager to execute certain assignments and consents.

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the "Act"), and Ordinance No. 545556 adopted on November 24, 1982, as amended by Committee Substitute for Ordinance No. 911076 adopted on August 29, 1991, by Ordinance No. 100089 adopted on January 28, 2010, by Ordinance No. 130986 adopted on December 19, 2013 and by Committee Substitute for Ordinance No. 140823 adopted on June 18, 2015, and by Committee Substitute for Ordinance No. 230524 (collectively, the "Enabling Ordinances") the City Council of Kansas City, Missouri created the Tax Increment Financing Commission of Kansas City, Missouri (the "Kansas City TIF Commission"); and

WHEREAS, The Act provides for eleven-member commissions in some cities and counties and twelve-member commissions in others; and

WHEREAS, Kansas City has historically been subject to the statutory requirements outlining an eleven-member commission; and

WHEREAS, through population growth and passage of a County Charter, TIF commissions in Clay County, Missouri may become subject to the statutory restrictions mandating a twelve-member commission; and

WHEREAS, the Council wishes to amend City Code to provide the new composition of TIF commissions for projects in Clay County, Kansas City, Missouri, NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 74, Code of Ordinances, is hereby amended by repealing Article III, "Tax Increment Financing," and enacting in lieu thereof a new Article of like number and subject matter to read as follows:

ARTICLE III. TAX INCREMENT FINANCING

Sec. 74-51. Title of article.

This article shall be known as the tax increment financing ordinance.

Sec. 74-52. History of the Commissions.

(a) The council hereby acknowledges that immediately subsequent to the Missouri General Assembly's 1997 Amendments to the Real Property Tax Increment Allocation Redevelopment Act, (the "Act") the tax increment financing commission of Kansas City, Missouri has been comprised of 11 persons for the purpose of convening public hearings in accordance with the Act and such membership has been as follows:

- (1) Six members have been appointed by the mayor, with the consent of the majority of the city council;
- (2) School districts in whose boundaries the redevelopment plan or redevelopment area is located have been notified in accordance with the Act and invited to appoint two representatives to serve as members of the commission;
- (3) The counties in whose boundaries the redevelopment plan or redevelopment area is located have been notified in accordance with the Act and invited to appoint two representatives to serve as members of the commission and such appointments shall be made by the county's chief elected official, with the consent of the majority of the governing body of such county;
- (4) All other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the city have been notified in accordance with the Act and invited to appoint, in any manner agreed upon by the affected districts, one representative to serve on the commission.

(b) In 2008, the Act was amended to provide for a 12 member commission in a county with a charter form of government and more than 250,000 but fewer than 300,000 inhabitants, to be comprised as follows:

- (1) Six members appointed either by the county executive or presiding commissioner;
- (2) Three members appointed by the cities, towns, or villages in the county which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;
- (3) Two members appointed by the school districts whose districts are included in the county in a manner in which the school boards agree;
- (4) One member appointed in the manner agreed upon by the ad valorem taxing districts within the area selected for a redevelopment project or the redevelopment area.

Sec. 74-53. Confirmation of the activities of the commission.

The council has previously confirmed the activities of the commission in establishing the composition of the commission following the 1997 amendments and affirmed that the school district representatives, the

county representatives and the taxing districts representative shall continue to serve on the commission for the purpose of conducting public hearings to consider for recommendation to the council approval of redevelopment plans and redevelopment projects, the designation of redevelopment areas within their specific jurisdictions, as well as all amendments thereto, and all other matters related to specific plans, projects, areas and amendments thereto, within their specific jurisdictions. The council has further confirmed that, prior to the date of the passage of Ordinance No. 100089, the terms of the school district representatives, county representatives and taxing districts representative have coincided with the commission's consideration of such redevelopment plans, redevelopment projects and redevelopment areas and terminated upon the city's final approval of a redevelopment plan, redevelopment project or designation of a redevelopment area.

Sec. 74-54. Establishment of the commissions.

(a) Kansas City TIF Commissions have and will consider for recommendation to the council approval of redevelopment plans and redevelopment projects, the designation of redevelopment areas, as well as all amendments to redevelopment plans, projects and the designation of redevelopment areas, within Kansas City and Jackson, Platte, or Cass County. The members appointed by the Mayor to the Kansas City TIF Commissions will serve a term of four years. Members of the Kansas City TIF Commissions appointed by the Mayor may give the school districts, the counties and the other taxing districts the option of either designating representatives to the Kansas City TIF Commission for a term of a period of time or designating the terms of their representative(s) to coincide with the commission's consideration of specific redevelopment plans, redevelopment projects and redevelopment areas within their specific jurisdictions, which terms shall then terminate upon the city's final approval of the corresponding redevelopment plan, redevelopment project or designation of a redevelopment area. Such county representatives, school district representatives and taxing districts representative will serve on the commission to consider amendments to a redevelopment plan, redevelopment project or designation of redevelopment area within their specific jurisdictions. The members of the Kansas City TIF Commissions shall be as follows:

- (1) Six members appointed by the mayor, with the consent of the majority of the city council;
- (2) Two members appointed by the school board(s) of the district(s) included within the redevelopment plan or redevelopment area;
- (3) Two members appointed by the chief elected official of the county in whose boundaries the redevelopment plan or redevelopment area is located with the consent of the majority of the governing body of such county;
- (4) One member appointed in the manner agreed upon by all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area.

(b) Clay County KC TIF Commissions will consider for recommendation to the council approval of redevelopment plans and redevelopment projects, the designation of redevelopment areas within their specific jurisdictions, as well as all amendments to redevelopment plans, projects and the designation of redevelopment areas, within Kansas City and Clay County. Members of the Clay County KC TIF Commissions, other than the members appointed by the county executive or presiding commissioner, shall serve for a term coinciding with the commission's consideration of the specific redevelopment plans, redevelopment projects and redevelopment area, which terms shall then terminate upon the Clay County KC TIF Commission's final recommendations to the City of the corresponding redevelopment plan, redevelopment project or designation of a redevelopment area. The members of the Clay County KC TIF Commissions shall be as follows:

- (1) Six members appointed by the county executive or presiding commissioner;
- (2) Three members appointed by the mayor;
- (3) Two members appointed by the school board(s) of the district(s) in the county;
- (4) One member appointed in the manner agreed up by all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area.

(c) If a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area falls within the jurisdiction of the Clay County KC TIF Commission and the jurisdiction of the Kansas City TIF Commission, each commission shall consider the proposal and make an independent recommendation to the city council.

(d) The City does not approve the exercise of any powers by a Kansas City TIF Commission or a Clay County KC TIF Commission, except those required to make recommendations to the City Council.

Sec. 74-55. Convening a Clay County KC TIF Commission.

Upon receiving a complete application for a TIF plan, project, or redevelopment area in Clay County and Kansas City, the TIF executive director, shall send notice by certified mail to the City, the county executive or presiding commissioner, the school districts whose boundaries include any portion of the proposed redevelopment area, and the other taxing districts whose boundaries include any portion of the proposed redevelopment area. If the county, school board, or other taxing district fails to provide the executive director with their designated appointees within 30 days of the mailing of the notice, or within thirty days of the expiration of the terms of a county appointed member, the remaining duly appointed members of the Clay County KC TIF Commission may exercise the full powers of the commission. The Mayor may choose to provide the executive director with a standing list of those members that they appoint to all Clay County KC TIF Commissions or may appoint members upon notification by the executive director of the formation of a Clay County KC TIF Commission. The executive director will then provide notice of a meeting of a Clay County KC TIF Commission in the manner provided in the Act.

Sec. 74-56. Failure to appoint Kansas City TIF commission members.

If any school district, county, or other taxing district fails to appoint members to a Kansas City TIF Commission within 30 days of receipt of written notice of a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission.

Sec. 74-57. Reserved.

Sec. 74-58. Administrative commission.

(a) The council delegates all of the powers delegable under the Act, in particular the powers enumerated in RSMo 99.820.1, including but not limited to, the approval of agreements to implement redevelopment plans and redevelopment projects, certification of redevelopment project costs identified in tax increment financing

plans, and processing the reimbursement of the same, for all plans and projects in Kansas City, Missouri, to the administrative commission, along with the authority to oversee those matters which do not relate to specific plans and projects. The administrative commission shall not consider recommendations to the council regarding redevelopment plans and redevelopment projects and the designation of redevelopment areas.

(b) The administrative commission shall meet regularly and shall adopt such rules and regulations for operation as shall enable it to maintain an orderly procedure for its business and to effectively and efficiently exercise the powers authorized by the statute and delegated to it by the council, including but not limited to, the adoption of bylaws.

(c) The administrative commission shall be comprised of:

- (1) The six representatives appointed by the city to the Kansas City TIF commissions pursuant to Code section 74-54;
- (2) Two representatives of the counties in which the city is situated, selected in any manner agreed upon by the counties;
- (3) Two school district representatives of the school districts in which the city is situated, selected in any manner agreed upon by the affected school districts;
- (4) One taxing district representative of the other taxing districts in which the city is situated, selected in any manner agreed upon by the affected taxing districts.

(d) Notwithstanding anything to the contrary herein, any development agreement, however denominated, or amendment thereto, executed by the administrative commission, after the effective date of committee substitute for Ordinance No. 140823, shall contain therein a provision allowing the administrative commission to assign and the city to assume, at the city's sole election, in whole or in such parts as the city shall elect, the rights, duties, interests and obligations of the administrative commission thereunder, and the administrative commission shall execute such documentation as may reasonably be required for such purposes. The failure of any development agreement, however denominated, to incorporate the requirements of this section or previously codified section 74-57 shall not preclude any assignment or assumption as the requirements of this section shall be deemed incorporated by operation of law and shall supplant any provision to the contrary.

Sec. 74-59. Records; reports.

The Kansas City TIF commissions, Clay County KC TIF Commissions, and administrative commission shall keep records and minutes of its meetings and shall report annually to the council respecting its activities.

Sec. 74-60. Officers.

The Kansas City TIF Commissions, Clay County KC TIF Commissions, and administrative commission shall elect from its number a chair, vice chair, treasurer and secretary, each to serve for one year terms or until their successors are elected.

Sec. 74-61. Alternate city representatives.

The mayor, with the consent of the majority of the city council, shall be empowered to appoint one or more alternate members to the Kansas City TIF Commissions who shall be designated as such (the "alternate city representatives") and who shall serve for a term of four years. Alternate city representatives to the Kansas City TIF Commissions may be sitting in the capacity of city members due to the absence of one or more city member from any meeting of the commission, and no action of a Kansas City TIF Commission shall be invalidated or called into question by virtue of the participation of such alternate city representatives in compliance with this section. In no event shall the city be represented by more than six persons in any matter pending before a Kansas City TIF commission. In the event that the number of alternate city representatives attending any meeting of a Kansas City TIF commission shall exceed the number of absent city representatives, then a simple majority of the city members in attendance shall determine which of the alternate city representatives shall serve in the capacity of city member for the duration of the meeting or until the absent city member shall be in attendance.

Sec. 74-62. Administrative costs.

The commission comprised of the city representatives and the county representatives, school district representatives, and taxing districts representative within their specific jurisdictions has, in accordance with section 99.820.1(14), RSMo, recommended to the city council that certain costs incurred by the city and other officials, including but not limited to such commission and the economic development corporation of the city, each of which provides services related to the administration of redevelopment projects, should be reimbursed in an amount equal to five percent of the Payment in Lieu of Taxes ("PILOTS") and Economic Activity Taxes ("EATS") paid into the Special Allocation Fund (collectively, the "Standard Reimbursement"), and the city council hereby determines such charges to be necessary, reasonable and appropriate. The powers granted to such administrative commission as codified in section 74-57, Code of Ordinances, to enter into any development agreement with a developer for the implementation of any plan, project, or amendment to either, shall be subject to and conditioned upon such redevelopment agreement including a term allowing for the standard reimbursement. Notwithstanding the foregoing, such administrative commission may, from time-to-time, recommend that a lesser amount is appropriate with regards to one or more specific projects, and the city council shall consider such recommendation and may determine, with respect to such one or more specific projects, that recoupment in an amount less than the standard reimbursement is appropriate, and in such event, the power granted to such administrative commission to enter into any development agreement with a developer for the implementation of any plan, project, or amendment to either, shall be subject to and conditioned upon such development agreement including a term allowing for such reduced reimbursement as the city council may have determined to approve by ordinance.

Sec. 74-63. Special allocation fund.

In the event that the city shall have received the funds residing within each special allocation fund established and existing pursuant to the terms of the Real Property Tax Increment Allocation Redevelopment Act as contemplated by Committee Substitute for Resolution No. 140826, then upon such occurrence, any special allocation fund established and existing pursuant to the terms of the Real Property Tax Increment Allocation Redevelopment Act shall thereafter be maintained solely by the city.

Section 2. That the City Manager is directed to solicit the agreement of the chief elected officials of the cities, towns, and villages in Clay County as to the manner of appointment of the City appointed Clay County KC TIF Commission members appointed by the Mayor in Code Section 74-54(b)(2).

Section 3. That the City Council authorizes the Administrative Commission to assume the rights and responsibilities of any previously constituted TIF commission with respect to any plan, project, or area in Clay County, Kansas City and to execute any necessary agreements to that effect.

Section 4. That the City Manager is authorized to execute on behalf of the City any consents or assignments necessary to permit the Administrative Commission to assume the rights and responsibilities of any previously constituted TIF Commission with respect to any plan, project, or area in Clay County, Kansas City.

Approved as to form:

Emalea Black
Associate City Attorney