

Summary of Proposed Special Ad Valorem Tax Management Districts

1. The authority to create a district is expressly derived from statutes (KRS 91.750, et seq.).
2. Concept – Designated Area petitions LFUCG to allow assessment of an additional ad valorem tax to provide and finance economic improvements that specially benefit the properties within the District. LFUCG is not allowed to change the level of services it otherwise provides within the District unless the same changes take place throughout the urban services area or county.
3. The Petition for the proposed Downtown Lexington Management District, which includes a proposed ordinance, exceeds the minimum legal requirements. The Mayor is required to forward the petition to Council if it meets minimum requirements.
4. The Council **is not required** to adopt an ordinance creating the District. However, a district cannot be created if an ordinance is not adopted.
5. The Ordinance must include all of the statutory requirements.
6. A public hearing and legal publication and notices are required prior to adoption of the ordinance. The public hearing should be scheduled after the first reading of the ordinance.
7. The ordinance caps the maximum assessment rate, which is set by the Board of the District each year (not the Council).
8. The Council has an ongoing role each year in approving the District's budget.
9. Under the proposed petition/ordinance for the Downtown Management District, the district will operate on the same fiscal year basis as LFUCG.
10. It is LFUCG's understanding that due to timing restrictions regarding the assessment of ad valorem taxes, the Downtown Management District will not attempt to assess ad valorem taxes until 2016 (which will be collected in the same general time frame as other ad valorem taxes).

91.750 Definitions for KRS 91.750 to 91.762.

As used in KRS 91.750 to 91.762, unless the context otherwise requires:

- (1) "Economic improvement" means any activity or service for the improvement and promotion of a management district that is of special benefit to property within the district, but shall not include any service ordinarily provided throughout the city, consolidated local government, or urban-county from general fund revenues unless an increased level of the service is provided in the management district;
- (2) "City" means a city of the first class;
- (3) "Legislative body" means the legislative body of a city of the first class, a consolidated local government, or of an urban-county government;
- (4) "Management district" means an area designated by a legislative body pursuant to KRS 91.750 to 91.762, that is to be benefited by economic improvements and subjected to the payment of special assessments for the costs of the economic improvements. Areas that may be designated as a management district include, but are not limited to, neighborhoods and business districts;
- (5) "Property" means any real property benefited by economic improvements;
- (6) "Special assessment" means a special charge fixed on property to finance economic improvements in whole or in part;
- (7) "Fair basis" means assessed value basis, front foot basis, square foot basis, or benefits received basis;
- (8) "Urban-county" means a local government formed as provided by KRS Chapter 67A; and
- (9) "Consolidated local government" means a local government formed as provided by KRS Chapter 67C.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 119, sec. 1, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 1, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 1, effective July 13, 1990.

91.752 Authority for establishment of district.

A city of the first class, consolidated local government, or urban-county government may establish one (1) or more management districts pursuant to KRS 91.750 to 91.762, for the purpose of providing and financing economic improvements that specially benefit property within the management district.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 119, sec. 2, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 2, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 2, effective July 13, 1990.

91.754 Petition proceedings to request establishment of district.

- (1) A city, consolidated local government, or urban-county government may initiate proceedings to establish a management district upon receipt by the executive authority of a written petition requesting the formation of a management district. A petition requesting the formation of a management district shall contain:
 - (a) The signatures and addresses of at least thirty-three percent (33%) of the owners of real property within the proposed management district and a number of real property owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the proposed management district;
 - (b) An accurate description of the boundaries of the proposed management district;
 - (c) An economic improvement plan that shall provide:
 1. A description of the economic improvements to be provided within the district;
 2. A preliminary estimate of the annual costs of the proposed economic improvements;
 3. The proposed method of assessing the costs of the economic improvements against the properties; and
 - (d) The proposed makeup of the board of directors of the management district, its powers and duties.
- (2) When a petition satisfying the requirements of subsection (1) of this section is received by the executive authority, he or she shall forward it to the legislative body which may proceed to enact an ordinance establishing a management district as provided in KRS 91.756.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 119, sec. 3, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 3, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 3, effective July 1990.

91.756 Ordinance -- Requirements to be included.

- (1) An ordinance establishing a management district shall include but not be limited to the following provisions:
 - (a) An accurate description of the boundaries of the management district designated either by map or perimeter description;
 - (b) A description of the economic improvements that may be undertaken within the management district by its board of directors, including but not limited to:
 1. The planning, administration, and management of development or improvement activities;
 2. Landscaping, maintenance, and cleaning of public ways and spaces;
 3. The promotion of commercial activity or public events;
 4. The conduct of activities in support of business recruitment and development;
 5. The provision of security for public areas;
 6. The construction and maintenance of capital improvements to public ways and spaces; and
 7. Any other economic improvement activity that specially benefits property;
 - (c) A requirement that the legislative body approve the annual budget and receive a copy of the annual economic improvement plan for the district;
 - (d) The method of assessment of the properties that may include any fair basis authorized by KRS 91A.200 to 91A.290;
 - (e) The method for collection of the assessment;
 - (f) A method by which the annual increase in assessments caused by inflation, new growth, and other factors shall be limited;
 - (g) The organizational structure of the board of directors for the management district and its powers and duties; and
 - (h) Any other provisions deemed necessary by the legislative body to implement the provisions of KRS 91.750 to 91.762.
- (2) After the first reading of the ordinance to establish the management district, but prior to its second reading and passage, a public hearing on the question of the establishment of the management district shall be held by the legislative body.
- (3) A summary of the proposed plan for the management district shall be published in a newspaper in accordance with KRS Chapter 424 no less than twice, at least seven (7) but not earlier than twenty-one (21) days before the date of the public hearing. Notice shall also specify the date, time, and place of the hearing. In addition, a copy of the proposed ordinance and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed management district.
- (4) After the public hearing, the legislative body may give second reading to the ordinance that shall become effective if passed and approved pursuant to KRS 83.500.

- (5) After the establishment of a management district, the legislative body shall not decrease the level of publicly funded services in the management district existing prior to the creation of the district or transfer the burden of providing the services, unless the services at the same time are decreased throughout the city, consolidated local government, or urban-county.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 47, sec. 1, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 119, sec. 4, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 4, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 4, effective July 13, 1990.

91.758 Economic improvement plan -- Annual budget -- Levy and collection of assessments -- Appeal -- Lien.

- (1) Upon the effective date of the ordinance establishing the management district, a board of directors shall be appointed and shall proceed to implement the economic improvements contained in the ordinance adopted by the legislative body.
- (2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board of directors shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the budget to the legislative body for its approval.
- (3) Upon approval of the annual budget, the board of directors shall:
 - (a) Submit the budget to the Department for Local Government as provided in KRS 65A.020;
 - (b) Publish the economic improvement plan pursuant to KRS Chapter 424; and
 - (c) Mail by first-class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.
- (4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.
 - (a) The board of directors may be directed to annually prepare and mail by first class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or
 - (b) The annual assessment may be collected in the same manner, at the same times, and by the office authorized by law for the collection and enforcement of general city, consolidated local government, or urban-county taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board of directors. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.
 - (c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his or her property. The contest shall be filed with the board of directors within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board of directors and present evidence. A record shall be made of the proceedings and the board of directors shall render a written decision. The decision of the board of directors may be appealed to the Circuit Court of the county in which the city, consolidated local government, or urban-county is located.
- (5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall

take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal, consolidated local government, or urban-county taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city, consolidated local government, or urban-county legislative body or the board of directors of the management district shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

Effective: March 21, 2013

History: Amended 2013 Ky. Acts ch. 40, sec. 36, effective March 21, 2013. -- Amended 2006 Ky. Acts ch. 47, sec. 2, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 119, sec. 5, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 5, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 5, effective July 13, 1990.

91.760 Memberships, powers, and responsibilities of board.

- (1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by a board of directors.
- (2) The number of members of the board of directors, their terms and qualifications, shall be established by the ordinance creating the district. All members of the board shall be property owners, representatives of property owners, or tenants within the district, except for specified ex officio members designated in the local ordinance. At least two-thirds (2/3) of the total number of board members, including ex officio members, must be property owners or the representatives of property owners within the district. The board members shall be appointed by the executive authority of the city, consolidated local government, or urban-county, with the approval of the legislative body. A board member may be removed by the executive authority for violation of the rules, regulations, or operating procedures adopted by the board of directors if the removal is recommended by a majority of the members of the board of directors.
- (3) The powers of the board of directors shall include all powers set forth in KRS 91.750 to 91.762 and the ordinance establishing the management district. The board of directors may employ or contract with persons to assist it in its responsibilities.
- (4)
 - (a) The board of directors shall manage the fiscal affairs of the management district and shall adopt rules and regulations governing the investment and disbursement of funds.
 - (b) The board of directors may borrow money on a short-term or long-term basis as required. The total aggregate amount of long-term and short-term debt which may be carried by a management district shall not exceed five hundred thousand dollars (\$500,000).
 - (c) The board of directors may hold funds in the name of the management district or may designate the city, consolidated local government, or urban-county as the fiscal agent for the management district.
 - (d) Money derived from the assessments imposed pursuant to KRS 91.750 to 91.762 shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes.
 - (e) As soon as practicable after the close of the fiscal year, the board of directors shall cause an audit to be performed of all funds of the management district by a certified public accountant.
 - (f) The board shall comply with the provisions of KRS 65A.010 to 65A.090.
- (5) In addition to receiving funds from assessments, the board of directors shall be authorized to receive grants, donations, and gifts.

Effective: March 21, 2013

History: Amended 2013 Ky. Acts ch. 40, sec. 37, effective March 21, 2013. -- Amended 2006 Ky. Acts ch. 47, sec. 3, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 119, sec. 6, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 6, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 6, effective July 13, 1990.

91.762 Change of boundaries -- Dissolution -- Disposition of excess funds.

- (1) The boundaries of the management district may be changed at any time by the legislative body in the same manner as provided in KRS 91.750 to 91.762 for the establishment of the management district.
- (2) The management district shall be dissolved by the legislative body upon the receipt of a petition requesting dissolution that is signed by a number of real property owners who together are the owners of real property within the management district equal to at least fifty and one-tenth percent (50.1%) of the assessed value of the property and thirty-three percent (33%) of the number of property owners within the management district, except that a management district shall not be dissolved if the district has any outstanding indebtedness.
- (3) If a management district is to be dissolved, and after the payment of all obligations and costs of administration incurred on behalf of the management district, there remain excess funds from assessments paid by property owners, then the city, consolidated local government, or urban-county, by ordinance, shall provide for:
 - (a) The return of the excess funds to the owners of properties in amounts proportionate to the amounts of the assessments they paid for the district;
 - (b) Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
 - (c) Use of part of the excess funds for continued provision of economic improvements and return of the balance of the excess funds in proportionate amounts to affected property owners.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 47, sec. 4, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 119, sec. 7, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 123, sec. 7, effective July 15, 1996. -- Created 1990 Ky. Acts ch. 297, sec. 7, effective July 13, 1990.