



## Legislation Text

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**File #:** 22-157, **Version:** 2

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Ordinance No. 22-20 including property into the boundaries of the MW Retail Business Improvement District located near the intersection of Woodmen and Marksheffel Roads.

(Legislative)

**Presenter:**

Carl Schueler, Comprehensive Planning Manager, Planning & Community Development  
Peter Wysocki, Planning and Community Development Director

**Summary:**

This is a request for approval of an ordinance to effectively include, totaling about 1.35 acres into the boundaries of the MW Retail Business Improvement District (the "District"). The City received a Petition for an Inclusion of Property as executed by the owner.

Per Colorado State Statute, residentially assessed property cannot be taxed as part of a Business Improvement District and therefore needs to be excluded. The subject property is being developed with multi-family uses.

This item was presented to the City Council Budget Committee on March 8, 2022, and then introduced at a Council Work Session on March 21, 2022, at which time there were no requests for changes or further information.

The project is located in City Council District No. 6. The developer of the project is MW Colorado Springs, LLC.

Note: The following item on today's agenda concerns an exclusion of approximately 17.2 acres from this BID. That item is in turn followed (on the April 12, 2022 agenda) by a resolution authorizing issuance of debt by this District.

**Background:**

BIDs are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements in non-residential areas, utilizing a property tax mill levy as their primary revenue source. BIDs are separate legal entities into the City, but their budgets and operating plans must be approved annually by the City. Additionally, BID boundary changes must be approved by Council ordinance.

This BID was originally created in 2019, with an area of about 35 acres. This inclusion would effectively add about 1.35 acres that are now platted and planned for residential purpose. Immediately following this action would be an exclusion of about 17.2 acres leaving about 19.15 acres remaining in this BID after both the inclusion and exclusion are completed.

This BID is not authorized to levy any debt service mill levy and has a limit of 1.0 mills for operations and maintenance. The reason for limitation is associated with the fact that there is an overlying metropolitan district (Woodmen Heights Metropolitan District No. 3) with its own mill levies including 30.0 mills certified for debt service. At this time, this effectively leaves other non-property tax revenues as the potential source of revenues for debt. In this case the BID contemplates use of public improvement fee (PIF) revenues. The original and current Operating Plan and Budget includes a maximum debt limit of \$10,000,000 for this BID.

Changing the boundaries of a BID by inclusion of property is governed by C.R.S. 31-25-1220, which requires the property owner to petition the governing body of the municipality in which the BID is located. Upon receipt of a petition for inclusion, notice of the petition must be given in accordance with C.R.S. 31-25-1220. The notice must inform all persons having objections to the inclusion to appear at a hearing to show cause why the petition should not be granted. If the governing body (City Council) determines that changing the boundaries of the BID as requested by the petition does not adversely affect the BID, the governing body may grant the petition by ordinance. A certified copy of the ordinance is then filed with the County Clerk and Recorder and the property is then excluded from the boundaries of the BID.

State Statute (Section 31-25-1220, C.R.S.) requires that any inclusions of property into Business Improvement Districts be approved by the City, by ordinance. In accordance with the statutory section cited above, the petition for inclusion has been verified and arrangements made with the City for legal publication.

This net property inclusion is contemplated in the BID's original (2019) Operating Plan and Budget.

This item was introduced at a March 8, 2022, meeting of the Budget Committee. The Committee asked clarifying questions primarily related to how this action would be associated with the separate exclusion and debt issuance items (refer to those items for more discussion).

**Financial Implications:**

There should be no direct financial implications to the City into this action. The net impact of this action will be to add a limited amount of developable taxable (or PIF-eligible) property into this BID

**Board/Commission Recommendation:**

The City's staff-level Special District Committee has been provided copies of these materials. All comments received have been in support and/or with no stated concerns.

**Stakeholder Process:**

N/A.

**Previous Council Action:**

The BID with its initial operating plan and budget, was established in 2019 by Ordinance 19-62.

This BID's Operating Plan and Budgets have been approved annually since that time in accordance with C.R.S. Section 31-25-1211, and most recently in October 2021.

**Alternatives:**

City Council could choose to approve or modify the proposed ordinance.

**Proposed Motion:**

Adopt an ordinance including property in the boundaries of the MW Retail Business Improvement District located near the intersection of Woodmen and Marksheffel Roads.

An ordinance including property in the boundaries of the MW Retail Business Improvement District located near the intersection of Woodmen and Marksheffel Roads