



## Legislation Text

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**File #:** 22-131, **Version:** 2

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Ordinance No. 22-19 excluding property from 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  
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**Summary:**

This is a request for approval of an ordinance to exclude a single parcel, totaling about 17.193 acres from the boundaries of the MW Retail Business Improvement District (the "District"). The City received a Petition for an Exclusion 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.

**Notes:**

- A PowerPoint presentation summarizing this item is included with the prior agenda item concerning an inclusion of property into this BID.
- The following item on today's agenda concerns 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 exclusion would remove about 17.2 acres that are now platted and planned for residential purposes, leaving about 17.8 acres remaining from the original BID boundaries. With approximately 1.35 acres being included as part of

a corresponding request, the new boundaries of this BID will encompass a little over 19 acres.

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 exclusion 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 exclusion, 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 exclusion 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 exclusions of property into Business Improvement Districts be approved by the City, by ordinance. In accordance with the statutory section cited above, the petition for exclusion has been verified and arrangements made with the City for legal publication.

This property has been zoned, platted and with development plans in place, to support the land uses consistent with and necessitating these BID boundary changes.

This exclusion is contemplated in the BID's current (2022) Operating Plan and Budget.

This item was introduced at a March 8, 2022, meeting of the Budget Committee. The Committee asked clarifying questions pertinent to all three of these related agenda items (inclusion, exclusion, debt issuance). Specifically, they asked about the continues applicability of the original \$10,000,000 maximum debt authorizations in view of the net reduction of this BID area from about 35 to about 19 acres. It was noted that this topic could be revisited with this BID's 2023 Operating Plan and Budget which will be considered by Council in October of 2022.

#### **Financial Implications:**

There should be no direct financial implications to the City into this action. Exclusion of this developable taxable property will reduce the ultimate future bonding capacity of the District, along with limiting, at least to some extent, the spatial location of potentially qualifying public improvements. As represented by the District, the size, structure and costs associated with the pending issuance of debt by this BOD have been designed to align with the proposed new boundaries. By law this property must be excluded free and clear of any obligation of the District (C.R.S. 31-25-1208(2)).

#### **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. At this juncture, not approving this exclusion is arguably not a valid legal option.

**Proposed Motion:**

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

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