

CITY OF OSAGE BEACH, MISSOURI
NEIGHBORHOOD IMPROVEMENT DISTRICT ACT
Procedures, Considerations and Petition

Adopted/Latest Revision May 16, 2013

The City of Osage Beach welcomes inquiries about new business and economic development.
Please call the City Administrator at 573-302-2000 ext 254.

Important Notice and Disclaimer

This policy has been prepared by the City of Osage Beach, Missouri (the "City") to assist applicants in the consideration of whether a Neighborhood Improvement District is a realistic possibility pursuant to the Neighborhood Improvement District Act (the "NID Act"). The authority to make the legislative findings and determinations necessary for the compliance with the statutes is vested solely and only in the Board of Aldermen. Applicants are cautioned that the attached materials have been prepared primarily for informational purposes only. The City reserves the right to reject any and all proposals, even those which satisfy the attached criteria. Furthermore, the City reserves the right to waive any non-conformance to these policies and approve any project the City deems favorable to the City.

Applicants should expect to be asked to provide funding for outside experts who may be retained by the city and to enter into a funding agreement for payment of those experts' fees. As a general rule, the simple projects are rare. Nearly every funding district still has certain complexities that require a significant amount of work for the city to process and consider the request and then negotiate the appropriate contract(s). Some issues that can cause additional complexity are:

- a significant number of property owners**
- multiple developers, which can require significant coordination by the city among the several private parties**
- significant involvement by the developer's lender early in the transaction**
- a land purchase from a bank after a foreclosure**
- the presence of existing residences in the project area**
- mixed use developments**
- involvement of other governmental jurisdictions**
- developer is requesting a large amount of reimbursement in relation to overall project costs, and additional scrutiny is required to determine eligible costs**
- funding district is already established, and the request is to modify what is already in place and possibly expand the scope of the district or what it will fund**

The standard initial funding agreement deposit is \$15,000. Most projects that involve any of the issues above will at least be in this ballpark of total costs, and if the project stretches

out over an extended period then the developer may need to replenish the fund one or more times until the work is finished.

Summary of the Approval Process

It is important that applicants understand that a NID is different from a CID or a TDD. A Neighborhood Improvement District is not a separate political subdivision. NIDs can be established in one of two ways.

1) The Board of Alderman may adopt a resolution calling for an election of voters within the proposed district. The election to establish the NID must pass by at least a 4/7 majority of district voters, or;

2) Alternatively, a petition signed by at least 2/3 of property owners within the proposed district may be submitted for consideration by the Board of Aldermen.

Under both methods, the petition or the resolution calling for an election must identify the project name, proposed improvements, district boundaries, method of assessment, and other information required by law. (See Section 67.457 RSMo.)

City Staff will review the Petition and determine whether the Petition is complete and whether the proposed project is eligible under the City's policy and the NID Act.

The City staff will report to the Board of Aldermen its advice whether or not to enter into a funding agreement with the applicant. The funding agreement sets out the applicant's responsibility for paying the City's costs for expert legal counsel and financial consultants.

All activity undertaken for consideration of a NID will be governed by the Neighborhood District Improvement Act sections 67.453-67.475 R.S.Mo. and in the event that any provision of this policy contradicts those statutes the statutes shall govern.

Following the election or petition, the City will prepare plans for the proposed improvements and a preliminary assessment roll. After a public hearing and adoption of the ordinance creating the NID, the Board of Aldermen will order the improvements constructed, and assess the property owners within the district the cost of the project after construction is completed.

Petition Procedures

A petition for creation of a NID, complying with the requirements of Sections 67.453 through 67.475 R.S.Mo. is filed with the City Clerk. At the same time not less than 15 copies of the completed Petition and supporting documents should be submitted to the City Administrator.

Upon submission, the Petition will be reviewed by City Clerk and City staff to determine if it is complete. If the Petition is determined to be incomplete by Clerk or staff or if additional information is needed the applicant will be notified that the Petition is not complete. That notification may include the reasons referring to the specific criteria that are not met, additional information required, or financial, legal or planning and development concerns. The petition will not be placed on the agenda for the Board of Aldermen until the Petition is determined to be complete by the City Clerk.

Review of the Petition will be conducted by the City Clerk and Finance, Law, and Planning Departments and, when deemed appropriate, by the City's outside advisors. Review time will be approximately 90 days from the date the completed NID Petition is submitted to the City. However, more or less time may be required for particular NID Petitions. Petitions that are determined to be complete will be forwarded to the Board of Aldermen for consideration and possible creation of a funding agreement with the applicant.

Petitions which are determined to be incomplete will not be forwarded to the Board of Aldermen. No hearing will be scheduled and no public hearing notices will be issued until the Petition is deemed complete by the City Clerk. Applicants will be notified of a determination that the Petition will not be forwarded.

The Board of Aldermen may have a study session on the Petition and shall hold a public hearing pursuant to Section 67.463 R.S.Mo. before consideration of an ordinance. Notice will be given to affected property owners as required by Section 67.461 RSMo. Certain amendments which meet threshold requirements of the NID Act may require that the Board hold another public hearing on the proposed amendments.

POLICY FOR THE USE OF A NEIGHBORHOOD IMPROVEMENT DISTRICT

1. It is the policy of the City to consider the judicious use of a NID for those projects which demonstrate a substantial and significant public benefit by constructing such public improvements that strengthen the quality of life, employment and economic base of the City, increase property values and tax revenues, reduce poverty, create economic stability, upgrade older areas, facilitate economic self sufficiency, and implement the Comprehensive Plan and economic development strategy of the City.

2. Care will be exercised in the use of a NID to evaluate each Petition to ensure that the benefits which will accrue from the approval of the Petition are appropriate for the costs which will result, and that they are equitable to the City as a whole.

3. Neighborhood Improvement District Considerations

- i. Petitions requesting establishment of a NID must be signed by owners of at least 2/3s, by area, of all real property in the proposed district.

- ii. The sale of bonds authorized for an approved NID shall be determined by the City. All costs normally associated with the sale of bonds shall be considered project costs and shall be reimbursed through the special assessments.
- iii. If construction of the improvements is proposed to occur before bond sale, the NID petitioners must provide a written commitment from an acceptable lending institution to finance the NID improvements for the district on an interim basis.
- iv. The property in the district liable for the special assessment must have a value sufficient to service the debt. Value may be determined using the Camden County or Miller County, (as appropriate) Assessor's data or an appraisal prepared by an appraiser acceptable to the City.
- v. NID petitions must indicate the intent of each petitioner to dedicate without cost right-of-way and easements needed to carry out the NID projects.
- vi. Each petitioner must certify that he does not have a financial interest in an existing development that has delinquent special assessments or taxes.
- vii. NID petitioners will be financially responsible for any project cost overruns in excess of the maximum bonding amount authorized by the Board of Aldermen.
- viii. NID petitioners will be financially responsible for any costs incurred under the Funding Agreement for the professional services retained by the City to aid the Board of Aldermen in consideration of the Petition or costs involved in the preparations of preliminary plans regardless of the outcome of the district formation.
- ix. NID petitioners must provide an acceptable engineering analysis and feasibility study to establish the viability of the project.
- x. For developer-initiated NIDs, the developer shall indemnify the city against any nonpayment of assessments.
- xi. The City retains the right to place a lien on properties for nonpayment of special assessments.

NID Guidelines

1. The following are examples of NID eligible activities. This list is not exclusive and users are encouraged to refer to the statute for complete guidance.

Only public improvements or facilities may be financed by a Neighborhood Improvement District (NID). Such improvements must benefit property located within the district. However, the improvement may be located outside the district if the improvements benefit the property in the district. Eligible improvements include but are not limited to the following:

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|---------------------------------|--|
| * Property acquisition | * Storm water facilities |
| * Streets | * Sanitary sewer |
| * Gutters | * Off-street parking |
| * Sidewalks | * Engineering and legal fees associated with public improvement projects |
| * Water, gas, and utility mains | * Maintenance of the project during the term of the bonds or notes |
| * Street lights | |
| * Parks and playgrounds | |

2. Each NID Petition must include evidence that the applicant has the ability to complete the project. Applicants with partners are expected to identify the partners at the beginning of the process.
3. NID Petitions for new or expanded public infrastructure projects will be viewed favorably. NID Petitions to stabilize current commercial and industrial areas that have experienced deterioration are also encouraged.
4. The projected term of the NID will be a factor, with shorter terms being viewed more favorably than longer terms.
5. Petitions must clearly comply with the requirements of the NID Statute, Sections 67.453 through 67.475 RSMo.
6. All approved projects must comply with prevailing wage and hour requirements for public works projects, as set forth in 290.210 R.S.Mo. et. seq. for all portions of the project receiving NID assistance. The applicant will be required to indemnify the City for all prevailing wage claims brought against the City for all NID-funded public works projects that are constructed by or at the direction of the applicant. Work to be covered by NID funds must be clearly identified in the Petition.
7. Notwithstanding the foregoing, NID Petitions which do not meet any of the above referenced criteria will be viewed favorably by the City if the Petition clearly demonstrates that the project is of vital interest to the City and will significantly assist the City by financing desirable public improvements and increasing property values.

NID Financing

Neighborhood Improvement District improvements are funded by city issued general obligation bonds, which are secured by the general revenue of the city. The City will then impose on the benefited properties within the District a special assessment. That special assessment constitutes a lien on the property pursuant to Section 67.469 RSMo. A property owner may make a single payment to meet the assessment before the assessment liens are imposed on the property. NID bonds are limited to a 20 year term.

RESERVATION OF RIGHT TO ALTER OR AMEND THIS POLICY

The City reserves the right to modify or waive any or all of these Policies and Procedures.

Petitioners are requested to complete and submit the attached cover page whenever an original or amended Neighborhood Improvement District Petition is submitted to the City Clerk.

CITY OF OSAGE BEACH, MISSOURI
NEIGHBORHOOD IMPROVEMENT DISTRICT PETITION
COVER PAGE

PROJECT NAME:

PETITIONER(S):

ADDRESS:

PHONE:

FAX:

EMAIL:

CONTACT:

On a separate sheet of paper please answer the following questions. Please retype each question prior to the applicable response.

- (1) In no more than three pages provide relevant information on the organizer's background, experience and ability to manage and complete the project. Include resumes of key individuals assigned to the project. If working with partners please identify those individuals as well.
- (2) Describe the proposed project, including the size, scope and phasing of the proposed project.
- (3) Define the boundaries of the proposed NID area. Include a map.
- (4) Identify the property which is currently in the control of the petitioners via ownership or option. If the property is under an option, note the option expiration date.
- (5) Are the NID improvements consistent with the City's Comprehensive Plan? Please describe.
- (6) Generally discuss the need and justification for creation of the NID.
- (7) Provide an outline of the budget, income, costs and expenses associated with the entire project. Identify in the outline those costs you would propose to fund with NID financing and if NID debt is used the proposed time frame.
- (9) Briefly describe the "economic and quality of life" benefits of the proposed project to the City.