

Effective 5/10/2016

Part 4
Blight Determination in a Community Reinvestment Project Area

17C-5-401 Title.

This part is known as "Blight Determination in a Community Reinvestment Project Area."

Enacted by Chapter 350, 2016 General Session

17C-5-402 Blight determination in a community reinvestment project area -- Prerequisites -- Restrictions.

- (1) An agency shall comply with the provisions of this section before the agency may use eminent domain to acquire property under Chapter 1, Part 9, Eminent Domain.
- (2) An agency shall, after adopting a survey area resolution as described in Section 17C-5-103:
 - (a) cause a blight study to be conducted within the survey area in accordance with Section 17C-5-403;
 - (b) provide notice and hold a blight hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements; and
 - (c) after the blight hearing, at the same or at a subsequent meeting:
 - (i) consider:
 - (A) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and
 - (B) whether the agency should pursue adoption of one or more community reinvestment project area plans; and
 - (ii) by resolution, make a finding regarding whether blight exists in the proposed community reinvestment project area.
- (3)
 - (a) If an agency makes a finding of blight under Subsection (2), the agency may not adopt the community reinvestment project area plan until the taxing entity committee approves the finding of blight.
 - (b)
 - (i) A taxing entity committee shall approve an agency's finding of blight unless the taxing entity committee demonstrates that the conditions the agency found to exist in the community reinvestment project area that support the agency's finding of blight:
 - (A) do not exist; or
 - (B) do not constitute blight under Section 17C-5-405.
 - (ii)
 - (A) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the proposed community reinvestment project area, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee in making a determination as to the existence of the questioned or disputed blight conditions.
 - (B) The agency shall pay the fees and expenses of each consultant hired under Subsection (3)(b)(ii)(A).
 - (C) The findings of a consultant hired under Subsection (3)(b)(ii)(A) are binding on the taxing entity committee and the agency.

Enacted by Chapter 350, 2016 General Session

17C-5-403 Blight study -- Requirements -- Deadline.

- (1) A blight study shall:
 - (a) undertake a parcel by parcel survey of the survey area;
 - (b) provide data so the board and taxing entity committee may determine:
 - (i) whether the conditions described in Subsection 17C-5-405:
 - (A) exist in part or all of the survey area; and
 - (B) meet the qualifications for a finding of blight in all or part of the survey area; and
 - (ii) whether the survey area contains all or part of a superfund site;
 - (c) include a written report that states:
 - (i) the conclusions reached;
 - (ii) any area within the survey area that meets the statutory criteria of blight under Section 17C-5-405; and
 - (iii) any other information requested by the agency to determine whether blight exists within the survey area; and
 - (d) be completed within one year after the day on which the survey area resolution is adopted.
- (2)
 - (a) If a blight study is not completed within the time described in Subsection (1)(d), the agency may not approve a community reinvestment project area plan based on a blight study unless the agency first adopts a new resolution under Subsection 17C-5-103(1).
 - (b) A new resolution described in Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-5-103(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.
- (3)
 - (a) For the purpose of making a blight determination under Subsection 17C-5-402(2)(c)(ii), a blight study is valid for one year from the day on which the blight study is completed.
 - (b)
 - (i) Except as provided in Subsection (3)(b)(ii), an agency that makes a blight determination under a valid blight study and subsequently adopts a community reinvestment project area plan in accordance with Section 17C-5-104 may amend the community reinvestment project area plan without conducting a new blight study.
 - (ii) An agency shall conduct a supplemental blight study for the area proposed to be added to the community reinvestment project area if the agency proposes an amendment to a community reinvestment project area plan that:
 - (A) increases the community reinvestment project area's geographic boundary and the area proposed to be added was not included in the original blight study; and
 - (B) provides for the use of eminent domain within the area proposed to be added to the community reinvestment project area.

Enacted by Chapter 350, 2016 General Session

17C-5-404 Blight hearing -- Owners may review evidence of blight.

- (1) In a hearing required under Subsection 17C-5-402(2)(b), an agency shall:
 - (a) permit all evidence of the existence or nonexistence of blight within the survey area to be presented; and

- (b) permit each record owner of property located within the survey area or the record property owner's representative the opportunity to:
 - (i) examine and cross-examine each witness that provides evidence of the existence or nonexistence of blight; and
 - (ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.
- (2) An agency shall allow each record owner of property located within a survey area the opportunity, for at least 30 days before the day on which the hearing takes place, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Enacted by Chapter 350, 2016 General Session

17C-5-405 Conditions on board determination of blight -- Conditions of blight caused by a participant.

- (1) A board may not make a finding of blight in a resolution under Subsection 17C-5-402(2)(c)(ii) unless the board finds that:
 - (a)
 - (i) the survey area consists predominantly of nongreenfield parcels;
 - (ii) the survey area is currently zoned for urban purposes and generally served by utilities;
 - (iii) at least 50% of the parcels within the survey area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes;
 - (iv) the present condition or use of the survey area substantially impairs the sound growth of the community, delays the provision of housing accommodations, constitutes an economic liability, or is detrimental to the public health, safety, or welfare, as shown by the existence within the survey area of at least four of the following factors:
 - (A) although sometimes interspersed with well maintained buildings and infrastructure, substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure, or significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;
 - (B) unsanitary or unsafe conditions in the survey area that threaten the health, safety, or welfare of the community;
 - (C) environmental hazards, as defined in state or federal law, which require remediation as a condition for current or future use and development;
 - (D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;
 - (E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;
 - (F) criminal activity in the survey area, higher than that of comparable nonblighted areas in the municipality or county; and
 - (G) defective or unusual conditions of title rendering the title nonmarketable; and
 - (v)
 - (A) at least 50% of the privately owned parcels within the survey area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and
 - (B) the affected parcels comprise at least 66% of the privately owned acreage within the survey area; or
- (b) the survey area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

- (2) A single parcel comprising 10% or more of the acreage within the survey area may not be counted as satisfying the requirement described in Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of the parcel is occupied by buildings or improvements.
- (3)
 - (a) Except as provided in Subsection (3)(b), for purposes of Subsection (1), if a participant or proposed participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the survey area, that condition may not be used in the determination of blight.
 - (b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who later becomes a participant.

Enacted by Chapter 350, 2016 General Session

17C-5-406 Challenging a finding of blight -- Time limit -- Standards governing court review.

- (1) If a board makes a finding of blight under Subsection 17C-5-402(2)(c)(ii) and the finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the survey area may challenge the finding by filing an action in the district court in the county in which the property is located.
- (2) A person shall file an action under Subsection (1) no later than 30 days after the day on which the taxing entity committee approves the board's finding of blight.
- (3) In an action under this section:
 - (a) the agency shall transmit to the district court the record of the agency's proceedings, including any minutes, findings, orders, or transcripts of the agency's proceedings;
 - (b) the district court shall review the finding of blight under the standards of review provided in Subsection 10-9a-801(3); and
 - (c)
 - (i) if there is a record:
 - (A) the district court's review is limited to the record provided by the agency; and
 - (B) the district court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and the district court determines that the agency improperly excluded the evidence; or
 - (ii) if there is no record, the district court may call witnesses and take evidence.

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