

76.241 Construction subdistrict established -- Petition, procedure, judicial review -- Waiver of notice and hearing.

- (1) The district may establish a construction subdistrict when twenty-five percent (25%) or more of the freeholders of land sought to be included in the construction subdistrict file their petition with the district. The petition shall describe the territory intended to be included in the construction subdistrict and the sewer and drainage conditions and facilities existing in this territory. The territory of the construction subdistrict may be noncontiguous to other territory of the district. Tenants in common, joint tenants with or without right of survivorship, and tenants by the entireties shall be deemed one (1) freeholder or property owner.
- (2) When the petition is filed with the district, said district shall give notice of the filing by publication pursuant to KRS Chapter 424. Within thirty (30) days after the publication, any resident or freeholder of the proposed construction subdistrict may file objections and the district shall set the case for hearing within thirty (30) days. If the district finds that the establishment of the construction subdistrict is reasonably necessary for the public health, convenience and comfort of the residents of the subdistrict, it shall make an order establishing the construction subdistrict and designating it by name and number.
- (3) If the district finds that the construction subdistrict is not necessary, it may dismiss the petition. If the district finds that any part of the proposed territory will not be benefited, it may strike such part. If the district strikes a certain portion of the area, the signature of the freeholders of that portion shall not be counted in determining whether the necessary twenty-five percent (25%) have petitioned for the creation of the subdistrict. A copy of the order of the board establishing a construction subdistrict shall be published in accordance with KRS Chapter 424.
- (4) An order of the district rejecting or dismissing the petition shall be deemed a final order of the district appealable to the Circuit Court under the procedure set forth in KRS 76.247 within sixty (60) days. Appeals to the Circuit Court from the order establishing a construction subdistrict or striking or refusing to strike any territory from a construction subdistrict shall be made only as provided in KRS 76.247 and only after following the procedures required in KRS 76.247.
- (5) In the event the owner or owners of all property or properties proposed to be included within the territorial boundaries of a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the creation of a construction subdistrict, and the construction and installation therein of sewer facilities as provided in KRS 76.241 to 76.273, inclusive, and shall unqualifiedly waive all formalities and substantive rights contained in:
 - (a) KRS 76.241, concerning the affording of notice as to creation of a construction subdistrict, the time for filing objections to the creation thereof, and the time for appealing from an order establishing a construction subdistrict;
 - (b) KRS 76.243, concerning the affording of notice as to proposed assessments; and

- (c) KRS 76.246, concerning the holding of a public hearing, and permitting litigation following the making and publication of an order concerning the construction plan in general.
- (6) The district may thereupon make and publish an order creating such construction subdistrict, and its order as provided in KRS 76.246(2), without further action being required, and may thereupon proceed to carry out said plan for improvements without further recourse to said identified statutory provisions and formalities; but in all such instances the written request or requests of the owner or owners of all properties proposed to be included within the territorial boundaries of such construction subdistrict shall be in recordable form and shall be recorded in the office of the county clerk of the county wherein the properties are situated, and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages. Each resolution of the district, by which an improvement is undertaken according to this section, shall contain a recitation of the receiving of written requests and waivers from the owners of all properties included within the territorial boundaries of the construction subdistrict. In the event the district proceeds pursuant to KRS Chapter 107, as authorized by KRS 76.251, the lien for which provision is made in KRS 107.160 shall attach upon publication of the resolution (equivalent to the "third ordinance") which authorizes issuance of improvement assessment bonds.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 198, effective June 17, 1978. --
Amended 1966 Ky. Acts ch. 75, sec. 1. -- Created 1964 Ky. Acts ch. 33, sec. 12.