

**67A.875 Determination of need by ordinance -- Preliminary planning procedures -- Ordinance of initiation.**

- (1) Any urban-county government which determines that the public health, safety, and general welfare requires construction of a wastewater collection project and which proposes to undertake, authorize, construct, and finance a wastewater collection project pursuant to KRS 67A.871 to 67A.894 shall, by appropriate ordinance of its urban-county council make such determinations and cause preliminary plans, designs, specifications, and financial planning for such project to be prepared by one (1) or more engineers, or one (1) or more firms of engineers, licensed to do business in the Commonwealth of Kentucky. Alternatively, such preliminary procedures may be accomplished directly by duly-qualified government personnel. A preliminary engineering and financing report shall be prepared in writing by such engineers for submission to the government.
- (2) The preliminary engineering and financing report shall, designate a geographical area in which a wastewater collection project is recommended for construction, contain a reasonable description of the project facilities proposed to be constructed, contain a statement as to benefits to be conferred by the proposed project and the distribution of such benefits and contain an estimate of the costs of the proposed project. The urban-county council of such government shall receive such preliminary engineering and financing report at a regular meeting, shall thereafter study and evaluate the same, and by duly-enacted ordinance either approve the preliminary engineering and financing report as submitted, disapprove such report, or amend and approve same in its sound discretion.
- (3) Upon approval of the preliminary engineering and financing report, or amendment thereof and approval thereof as amended, by the urban-county council of such urban-county government, such council shall formally initiate proceedings for the acquisition and financing of the proposed wastewater collection project by the enactment of an ordinance to be designated as the ordinance of initiation, in which public announcement shall be made of the wastewater collection project proposed to be acquired, constructed, and financed, the identification of properties proposed to be benefited by such project, which benefited properties may be identified by naming the public way upon which the benefited properties abut, if any, or by geographical location, or by metes and bounds or other appropriate description. The ordinance of initiation shall recite the nature and scope of the wastewater collection project being initiated by the government, shall give a preliminary estimate of the costs thereof, shall determine that each lot, parcel and tract of land named and identified in the ordinance of initiation as benefited property shall be afforded benefits by the project unless specifically excluded by such ordinance and shall order that a public hearing be held in respect of the proposed wastewater collection project.
- (4) In all succeeding proceedings, the government shall be bound and limited by the ordinance of initiation with regard to the nature, scope and extent of the proposed wastewater collection project, but shall not be bound by or limited to the preliminary estimate of the costs of the proposed project. The costs of such project

shall be determined upon the basis of construction bids publicly solicited by such urban-county government as required by KRS 67A.871 to 67A.894, and shall be binding upon the government and upon the owners of benefited properties, whether they turn out to be equal to, below, or above, such preliminary estimate of costs.

- (5) In the ordinance of initiation, the urban-county council shall make findings of fact regarding the degree and nature of benefit which will accrue to benefited properties by the installation of the project. In the event the urban-county council determines as a fact that groups of benefited properties, or all benefited properties, will be affected and benefited in substantially the same manner and to substantially the same degree, such urban-county council may determine that it is appropriate to classify benefited properties into one or more assessment zones based upon the similarity of benefits to be derived by benefited properties from installation of the project, and in such case, the urban-county council may deem all benefited properties within a particular assessment zone to be equally benefited and therefore equally treated for purposes of levying improvement benefit assessments to provide funds to pay the costs of the project. It is the intent of KRS 67A.871 to 67A.894 to vest in the urban-county council of any urban-county government undertaking a project, authority to make findings of fact in order to classify properties according to benefits conferred from the construction of projects, and such urban-county council may, as aforesaid, by appropriate ordinance, determine that identified groups of benefited properties will be benefited similarly by a project and shall therefore be treated equally for purposes of levying improvement benefit assessments upon such benefited properties. The urban-county council may accept and rely upon any pertinent data in making such findings of fact, including, the size and diameter of sanitary sewer service connections to be made available. In the event the urban-county council of the government shall determine that all properties situated within a particularly described classification or zone shall not receive substantially equal benefits from the project, the urban-county council shall determine in the ordinance of initiation that such properties shall be assessed for benefits conferred based upon the relative assessed land valuation of each benefited property as it relates to the aggregate assessed land valuation of all benefited properties within such particularly described classification or zone initially, when property owners shall be afforded the opportunity to pay improvement benefit assessments on a lump sum basis, and subsequently, during each annual period when bonds issued to provide for payment of costs of the project not paid by lump sum payments shall be outstanding. Findings of fact made by any urban-county council in accordance with the provisions of this section shall be entitled to a presumption of regularity and accuracy when based upon receipt of, and consideration of, factual data and information described in this section.
- (6) The ordinance of initiation shall provide that a public hearing shall be held in respect of the proposed project at a time and place which shall be specified in the ordinance of initiation, and shall give notice that at the public hearing any owner of benefited property may appear and be heard as to whether the proposed project should be undertaken, whether the nature and scope of the project should be altered, and whether the project shall be financed through the assessment of benefited

properties and issuance of bonds in respect of assessments not paid on a lump sum basis, all as proposed by the ordinance of initiation and as authorized by KRS 67A.871 to 67A.894.

- (7) The ordinance of initiation shall be published pursuant to KRS Chapter 424, and shall designate an individual, who shall be a member of the urban-county council or any government officer, to preside at the public hearing. In the absence of a designation in the ordinance of initiation, the mayor of the government shall preside at the public hearing. Notwithstanding the foregoing, the public hearing shall not be deemed irregular or improper if it is in fact presided over and conducted at the designated time and place by any official of the urban-county government.

**Effective:** March 30, 1976

**History:** Created 1976 Ky. Acts ch. 371, sec. 5, effective March 30, 1976.