

CHAP 90 TAXATION-ARTICLE VI. - SPECIAL TAX DISTRICTS

Sec. 90-101. - Creation of special tax district.

There is hereby created and established special districts for the provision of services within such districts. Fees, assessments, and taxes may be levied and collected within such districts to pay, wholly or partially, the cost of providing such services therein and to construct and maintain facilities therefor.

- (1) *Purpose for special tax district.* The special districts shall be created for the following purposes:
 - a. Street and road construction and maintenance, including curbs, sidewalks, and devices to control the flow of traffic;
 - b. Streetlights;
 - c. Stormwater retention or detention facilities; or
 - d. Parks, recreational areas, programs, and facilities comprising greenspace lands.
- (2) *Creation of tax district.* When a service or maintenance of a facility, which is identified by this article, is requested by existing residents or in situations where the county board of commissioners by a majority vote, makes an independent determination that a service or maintenance of a facility which is identified by this article is in the best interest of the county and necessary for the protection of the health, safety and/or welfare of persons or properties within a designated area or areas, the board of commissioners is authorized to create a special tax district to fund the service or maintenance of said facility through the following procedures:
 - a. In situations where the request for service or maintenance of a facility through the creation of a special tax district is initiated by a request from existing residents, then these residents may request the creation of a special tax district to fund the service or maintenance of said facility by compliance with the following:
 1. Any owner of land in any unincorporated area of the county may present a written request for the creation of a tax district to the director of the department of community development.
 2. Application fee. Application fee shall be \$75.00 plus \$5.00 per lot within the development to be served by the special tax district. In addition, where the application is for the purpose of maintaining public improvements as set forth under subsection (1), the application shall tender in advance a sum equal to the customary rates charged by the appropriate service provider for similar services for a period of the following:
 - (i) Reserved.
 - (ii) Where the purpose of the application is for streetlights, the applicant shall tender a deposit equal to two years of service/utility payments.
 3. Upon receipt of a complete application, the director shall delineate the appropriate boundaries of the tax district, prepare a sketch or plat showing the proposed tax district, and prepare a petition for the establishment of a special tax district for circulation among the property owners in the proposed special tax district. The required petition shall be available in the department of community development.
 4. If 75 percent of the lot owners in the proposed special tax district sign the petition for the creation of a tax district, the petition shall be presented to the board of commissioners. The board of commissioners shall then conduct a public hearing for the purpose of determining whether or not to create the proposed special tax district, giving consideration to health, safety, and welfare concerns. Unless 100 percent of the lot owners sign the petition, the public hearing shall be advertised one time in the official organ of the county more than 15 days but not more than 45 days before the

hearing, and at least one sign shall be posted in the proposed tax district giving notice of the hearing, at least 15 days before the public hearing. It shall be the responsibility of the residents of the area in which the creation of a special tax district has been requested to secure the signatures on the petitions as outlined herein. The director shall verify the signatures on the petition prior to advertising the public hearing.

5. It shall be the landowner's responsibility to construct, install, and equip the facility and make any initial improvements at their cost.
 6. Improvements shall be installed on property where the county has title to land (for special tax districts involving streetlights in new subdivisions, the provisions of ch. 86, subdivisions, art. VII., subsection 86-125(e) shall apply).
- b. In situations where the county board of commissioners by a majority vote has made an independent determination that the creation of a special tax district in a designated area or areas is in the best interest of the county and necessary to protect the health, safety and/or welfare of the persons or properties within a designated area or areas, the creation of a special tax district is subject to compliance with the following provisions:
1. Upon majority vote of the county board of commissioners, the director of the department of community development or his designate shall delineate the appropriate boundaries of the proposed special tax district, and prepare a sketch or plat showing the proposed special tax district for circulation among the property owners in the proposed special tax district.
 2. The board of commissioners shall then conduct a public hearing for the purposes of receiving input on whether or not to create the proposed special tax district. The public hearing shall be advertised one time in the official organ of the county more than 15 days prior to the public hearing but not more than 45 days prior to the public hearing.
 3. At least one sign shall be posted in the proposed tax district giving notice of the public hearing at least 15 days prior to the public hearing.
 4. The director of the department of community development shall mail or cause to be mailed to the address of the owner of any piece of property contained within or affected by the proposed special tax district correspondence as set forth herein. The correspondence shall be mailed to the owner/owners of the properties contained within or affected by the special tax district utilizing the addresses for said owners as contained on the tax records of the office of the county tax commissioner. The correspondence shall advise the owners of property located within or affected by the proposed special tax district of the anticipated creation of the special tax district, the purpose of the special tax district, the required deposits and other charges associated with the creation of this special tax district, the method of payment or collection of fees associated with services or facilities provided as a result of the special tax district, and the date and time of the public hearing, as advertised, for a determination of whether or not to create the special tax district. This correspondence shall be mailed at least 15 days prior to the date of the public hearing.
 5. Where the purpose of the special tax district is streetlights, the residents shall tender a deposit equal to two years of service/utility payments.
 6. It shall be the landowner's responsibility to construct, install and equip the facility and make any initial improvements at their cost.
 7. Improvements shall be installed on property where the county has title to land (for special tax districts involving streetlights in new subdivisions, the provisions of ch. 86, subdivisions, art. VII, subsection 86-125(e) shall apply).
- (3) *Register*. There is created hereby special tax districts that shall be identified by a number assigned by department and tax assessor's office. Each tax district shall be comprised of subdivided lands and shall contain the tax parcel numbers of each lot contained there. A

register of tax districts shall be maintained in the office of tax assessor and the community development department. Such registers shall be available to the public for inspection upon reasonable notice to either of these offices.

- (4) *Collection.* The charges for service in each district shall be paid as a district tax, and shall be collected concurrently with the ad valorem tax billed to each lot or lot resident within each tax district. The office of the tax commissioner shall be responsible for the collection of the tax assessed to each tax district.
- (5) *Approval of board of commissioners.* Upon the recommendation of the staff, the board of commissioners shall approve or deny the creation of the special tax district. The special tax district shall be effective upon approval by the board of commissioners and the effective date shall be set forth on the final plat. When each requirement of this article is completed, and the board of commissioners approves the creation of the special tax district, the county will assume the responsibility and make the periodic payments to the utility company or service provider for services rendered.
- (6) *Authority to contract with utility, service providers, and other parties.* The board of commissioners may contract with the public utilities, and other parties supplying labor, materials, and construction services for the purposes of carrying out the terms of this article.

(Ord. of 5-19-02, § 1; Ord. of 3-18-08, § 3)

Sec. 90-102. - Service charges.

- (a) *Determination and modification of service charges.*
 - (1) The cost of providing services and maintenance under this article shall be borne by the owners of the property within the special tax district receiving that service. Service charges shall be determined and modified from time to time by resolution of the board of commissioners. In setting or modifying such rates it shall be the objective of the board of establish rates, fees and charges that are fair and reasonable, reflect the value of services, maintenance of facilities, or cost of improvements to those properties who benefit therefrom and will be sufficient to meet the cost of budgeted projects, services and maintenance of facilities, including but not limited to the payment of principal and interest on revenue bond obligations incurred for construction and necessary improvements to the district.
 - (2) In the event of excessive vandalism to improvements within the special tax district that results in a county being billed for repairs, the county may pro-rate these repair bills and add a pro-rata share of these bills to the charge. Charges shall be assessed against all lots within the special tax district whether or not the lot is located within the boundaries of a particular subdivision, so long as the lot is located within the boundaries of the special tax districts.
- (b) *Lien created.* In addition to any other rights of collection for late or unpaid charges, the county shall have the rights available under the laws of the state for assessment, the creation of a lien upon the property of the owner receiving the service provided together with all rights of execution, levy foreclosure and sale.
- (c) *Deposit required; forfeiture.* In addition to the other charges authorized under this article, the county shall have the right to require deposits from the lot owners receiving the service in such amount as shall be determined by the board of commissioners in subsection 90-101(2)a.2.(ii) or 90-101(2)b.5. as appropriate. This deposit shall be held by the county as security for payment for services rendered, and the county shall have the authority to set off service charges against the deposit for nonpayment for services at such times and on such occasions as shall be determined by the county. Notice of such setoff shall be given to the lot owner by mail at the address of the property services by the streetlights, although advance notice of such setoff shall not be required. In the event of a reduction in the deposit of a property owner because of failure to pay charges assessed pursuant to

this article, the lot owner shall be required to restore the deposit to its required level upon request by the county.

- (d) *Service charges.* The following rates shall apply:
- (1) *Dwellings units.* Each attached and each detached dwelling unit shall be charged the rate applicable to one equivalent residential unit according to the rate schedule that is adopted by the board of commissioners, that schedule may be amended or modified in the future.
 - (2) *Subdivided lands.* All subdivided lands within the district that are not deed restricted from constructing or installing a dwelling unit shall be charged at a rate of one equivalent residential unit multiplied by the number of dwelling units on the respective subdivided parcel of land.
 - (3) *Administrative service charge rate.* The administration of the services herein provided and for all billing and accounting shall be the responsibility of the board of commissioners. An administrative fee that is related to an amount necessary to defer necessary expenses related to the administration of this article shall be set by the board of commissioners and added to each tax bill.
- (e) *Service charges, billing, delinquencies.* A charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for nonpayment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land, as shown from the public land records of the county, shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent for developed land, the county may backbill for a period of up to four years, but shall not assess penalties for any delinquency. A one and one-half percent late charge shall be billed based on the unpaid balance of any service that becomes delinquent.
- (f) *Service charges billed in common.* The service charge maybe billed on a common statement and collected along with other county taxes and services.
- (g) *Appeals.* Any customer who believes the provision of this article have been applied in error may appeal in the following manner.
- (1) An appeal must be filed in writing with the director of department of community development. In the case of service charge appeals, the appellant shall include sufficient information to conduct a review of the service charge.
 - (2) Using the information provided by the appellant, the director shall conduct a review of the property and respond to the appeal in writing within 30 days.
 - (3) In response to an appeal, the director may adjust the service charge applicable to a property in conformance with the general purpose and intent of this article.
 - (4) A decision of the director that is adverse to an appellant may be further appealed to the chairman of the board of commissioners within 30 days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the chairman of the board of commissioners by the appellant, stating the grounds for the appeal. The chairman of the board of commissioners shall issue a written decision on the appeal within 30 days. All decisions of the chairman of the board of commissioners shall be served on the appellant personally or by registered or certified mail, sent to the billing address of the appellant.
 - (5) All decisions by the chairman of the board of commissioners shall be final.
 - (6) The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the chairman of the board of commissioners may be reviewed upon application for writ of certiorari before the superior court of the county, filed within 30 days of the date of service of the decision.
- (h) *Conflict of laws.* If any provision of this article is in conflict with any state or federal law, or with any rule, regulation or order of any agency of this state or federal agency having jurisdiction of the subject matter of this article, it is hereby deemed to be the intention of the board of commissioners

that the state or federal law or rule, regulation or order, as the case may be, shall prevail so that the remaining portion of this article shall be deemed to be of full force and effect.

- (i) *No waiver.* It is the intent of this article to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the unincorporated boundaries of the county. The county expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the county, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the county as a condition precedent to any activity by or upon property not owned by the county, pursuant to this or any other regulatory ordinance, regulation or rule of the county or under federal or state law, the issuance of such permit, plan approval, or inspection shall not be deemed to constitute a warranty, express or implied, nor shall afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the county, its officers, employees or agents.

(Ord. of 5-19-02, § 1; Res./Ord. of 3-18-08, § 4)

Secs. 90-103—90-110. - Reserved.