



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

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MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney
DATE: May 25, 2022
SUBJECT: Community Development Districts

BACKGROUND.

Per section 190.003, Florida Statutes, a community development district is defined as a local unit of special-purpose government. The main purpose of a community development district is to plan, finance, construct, operate and maintain infrastructure and services in a development. The financing for the infrastructure and services is through the issuance of tax-exempt bonds, with the principal and interest then paid back over time by the residents through assessments on the annual property tax bill. Please note that the community development district assessment is in addition to the other taxes and assessments on the annual property tax bill and homeowner's association fees that are not found on the annual property tax bill. The community development district is a financing option for developers that allows them to shift the upfront development costs of a project onto the future residents of a development. If these assessments are not paid, homeowners can lose their homes through the same process established under Florida statutes for not paying property taxes.

Per section 190.005, Florida Statutes, the Indian River County Board of County Commissioners ("Board") has the authority to establish a community development district of less than 2,500 acres in size. Per the statute, in making a determination as to whether to grant or deny the Petition, the Board considers:

1. Whether all statements contained within the Petition have been found to be true and correct.
2. Whether the establishment of the proposed district is inconsistent with any applicable element or portion of the state comprehensive plan or of the Indian River County Comprehensive Plan.
3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. Whether the proposed district is the best alternative available for delivering community development services and facilities to the area that will be served by the proposed district.
5. Whether the community development services and facilities of the proposed district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

6. Whether the area that will be served by the proposed district is amenable to separate special-district government.

On December 7, 2021, after a withdrawal of a prior request for a community development district, the Board discussed establishing a policy on community development districts. At the Board meeting, the idea was presented about an ad-hoc committee of interested developers and community groups establishing parameters for community development districts, and County staff agreed to bring back a presentation in March of 2022.

On February 10, 2022, County staff conducted a meeting in the large conference room in Building B concerning community development districts. Approximately 25 people from the development community, including developers, builders, engineers, consultants and attorneys attended. A good discussion ensued that lasted almost two hours. At the meeting, County staff reiterated the position stated at the December 7, 2021 Board hearing, that County staff could support community development districts in situations where a specific project is going to provide an important additional benefit (e.g. significant additional public amenities, special conservation component, the need to overcome a substantial infrastructure obstacle, above and beyond the requirements to development a property, and traditional neighborhood developments). Additionally, County staff stated that they believed that community development districts were more appropriate in larger scale projects, such as 500 or more acres.

On March 15, 2022, the County Attorney's Office sought guidance from the Board on how to proceed. The Board voted 4-1 to direct the County Attorney's Office to 1) gather the Board's comments regarding community development districts; 2) utilize those comments in conjunction with input from Community Development staff to create a draft version of policy parameters for community development districts; 3) schedule a workshop with community partners to discuss the draft policy; and 4) return to the Board in May or June of 2022 to present the draft policy for Board input and approval.

The County Attorney's Office in conjunction with Community Development staff drafted the attached guidelines. County staff tried to incorporate the various issues raised by the Board including, increasing connectivity and incorporating grid networks, using a 500 acres threshold for requests, having a public benefit, increasing the amount of open space, having a multi-use real estate project, such as an equestrian community.

Per the Board direction, County staff conducted a follow-up workshop on March 28th. Much of the discussion at the workshop was focused on having County guidelines that were more flexible with regards to the acreage requirements and the connectivity requirements. Subsequently, County Community Development staff met with land development planners to discuss proposed changes. County staff supports the guidelines as revised, which closely mirror the County's Traditional Neighborhood Design (TND) standards and which staff believes meets the direction set forth by the Board. Thus, County Attorney's Office recommends that the Board adopt the proposed guidelines.

The Board should also consider whether it wishes to establish an application fee for community development districts which are less than 2,500 acres. Per section 190.005, Florida Statutes, an application for the establishment of a community development district of 2,500 acres or more must be accompanied by a filing fee of \$15,000. However, there is no statutory filing fee for smaller community development districts.

FUNDING.

There is no funding associated with the community development district guidelines. Any application or filing fee received by the County would be deposited into the MSTU Fund/Other Miscellaneous Revenues account, 004038-369900.

RECOMMENDATION.

The County Attorney's Office recommends the Indian River County Board of County Commissioners adopt the Indian River County Community Development District Guidelines and establish an application fee of \$15,000 consistent with section 190.005, Florida Statutes.

ATTACHMENT.

CDD Guidelines