

CHAPTER FIVE

SPECIAL ASSESSMENTS CODE

5.0 PURPOSE

The purpose of the Code is to establish the manner in which Municipal Service Taxing Units (“MSTUs”), Municipal Service Benefit Units (“MSBUs”), and Dependent Special Districts are created, amended, and administered. Definitions for terms referenced throughout the Chapter are located in Appendix A.

5.1 GENERAL PROVISIONS

5.1-1 APPLICABILITY

The provisions of this Code shall apply to the development and administration of the County’s Special Assessments that are under the control of the Board. All Entities will be established in accordance with applicable laws and regulations, which may not be reflected in, or may be inconsistent with, any provision of this Policy. Nothing in this Policy shall prevent the County from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with law.

5.1-2 WAIVER OF REQUIREMENTS

The Osceola County Board of County Commissioners (“Board”) may, when deemed to be in the best interest of Osceola County (“County”) and not inconsistent with law, waive any or all requirements or provisions set forth in this Code and proceed thereafter to take whatever action is deemed to be in the best interest of the County in accordance with applicable Ordinances and Florida Statutes.

5.1-3 CHANGES IN LAWS AND REGULATIONS

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Code, automatically supersede this Code.

5.1-4 REQUIREMENT OF GOOD FAITH

The Policy requires all parties involved in the administration of the County’s Special Assessments program to act in good faith.

5.1-5 CONFIDENTIAL INFORMATION

Confidential information shall be administered in accordance with the Public Records Act, Chapter 119, Florida Statutes, as amended and other applicable provisions of the law.

5.2 AUTHORITY

5.2-1 BOARD OF COUNTY COMMISSIONERS

- A. The Osceola County Home Rule Charter, Chapter 125 and Chapter 218, Florida Statutes, and Chapter 69I, Florida Administrative Code grants the Board the ability to establish policies governing the administration of public funds and its tangible personal property.
- B. Chapter 125, Florida Statutes grants the Board the ability to establish various funding mechanisms within Osceola County that provide for specific services which includes the authority to establish MSTUs and MSBUs.
- C. In addition, Chapter 189, Florida Statutes provides the Board the authority to establish Dependent Special Districts.

5.2-2 COUNTY MANAGER

- A. In accordance with Chapter 1.2 of the Administrative Code, the County Manager is responsible for the day-to-day administration of the County and to administer and carry out the Board's policies.
- B. The County Manager shall have the authority to adopt operational procedures, consistent with this Chapter of the Administrative Code and Florida Statutes governing Special Assessments creation and management.

5.2-3 COUNTY STAFF

- A. The County Manager shall designate the qualified individuals responsible for the County's Special Assessments processes as identified throughout this Policy, including the following:
 - 1. Review the County's adopted Policy and regulations whenever necessary, and propose any necessary amendments to ensure compliance with applicable Ordinances, Florida Statutes, and best practices.
 - 2. Assist the County Manager in the development, implementation, and administration of the County's Special Assessments program.

3. Assist the County Manager in the development, implementation, and administration of procedures and processes for the County's Special Assessments program.
 4. Ensure employees receive and retain the necessary training for the administration of their assigned duties.
- B. Departments' Administrators/Directors are responsible for their functional areas assigned by the County Manager. As it relates to this Policy, this includes the following:
1. When requested, prepare and submit estimates of costs as it relates to services they will be responsible for delivering.
 2. Ensure expenditure estimates are in line with any applicable requirements to ensure the County is fully reimbursed through the assessment process.
 3. Administer and monitor assigned project implementation to ensure expenditures are within appropriations or to ensure the necessary process to implement a budget adjustment has been initiated.

5.3 MSTU/MSBU AND DEPENDENT SPECIAL DISTRICTS

- A. At its sole discretion and as noted in this Policy, the Board may establish MSTUs, MSBUs and Dependent Special Districts to meet the needs of the County and/or specific neighborhoods.
- B. Generally, the County does not desire to establish new neighborhood-serving MSTUs/MSBUs/Dependent Special Districts; rather, developers shall establish a Home Owners' Association (HOA) or Community Development District (CDD).
- C. When a new service unit is authorized to be created, the preference is to establish a MSBU or Dependent Special District, whenever possible.
- D. When a Municipal Service Benefit Unit is created, unless directed otherwise by the Board, Assessments will be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes.
- E. The creation of an MSTU, MSBU, or Dependent Special District may be initiated by a property owner(s) request, voter referendum, or through the County identifying the need.
- F. Generally, the creation of new Entities is initiated by property owner(s) requests and are generally approved/established via direct action by the Board.

- G. In accordance with Chapter 6 (Finance Code) of the County's Administrative Code, the County utilizes Fund accounting to organize and account for all revenues and expenditures. As such, MSTUs, MSBUs, and Dependent Special Districts are accounted for separately as Special Revenues.
- H. Fees: When the implementation and management of County MSTUs/MSBUs/Dependent Special Districts require County administrative support and/or services, the County's costs will be accounted for and recovered via direct transfers or the cost allocation plan.
 - 1. All benefitted property owners are responsible for paying for the costs of services provided to their community.
 - 2. County staff costs will include salaries and benefits.
 - 3. For applicant-initiated requests, all applicable and relevant costs shall be pre-paid by the applicant.
 - 4. Fees will be evaluated, at least annually, and typically as a part of the budget development process, to ensure updated County costs are incorporated.
 - 5. The Board may waive this requirement if it is determined to be in the best interests of the County.
- I. Special Assessments imposed within MSBUs or Dependent Special Districts must meet the following Florida case law requirements:
 - 1. The facility or service to be funded with Special Assessment proceeds must confer a special benefit to the property being assessed; and
 - 2. The costs assessed must be fairly and reasonably apportioned among the properties that receive the special benefit.

5.4 NEIGHBORHOOD-SERVING MSTUs/MSBUs

5.4-1 NEW MSTUs/MSBUs

- A. The creation of an MSTU/MSBU may be initiated as noted by this Policy.
- B. While the preference is to establish an MSBU when a new service unit is created, the decision depends on a number of factors including the type of service and geographical area to be served.
- C. MSTUs/MSBUs will be created in accordance with all applicable Ordinances and Florida Statutes.

- D. Petition: Although the initial request may be generated by a property owner or group of owners, including HOAs, the cost of the requested service is assessed to all property owners within the MSBU/MSTU. Consequently, the Board desires a mechanism to ensure that there is broad support of the request prior to proceeding. The Board has determined that a Petition may serve as an indicator of the amount of community interest for the establishment or amendment of citizen-initiated requests for an MSTU/MSBU.
1. The County will facilitate the mailing of the Petition, but at the cost of the applicant. The County will provide the applicant with an estimate of the cost and payment must be received prior to processing the Petition.
 2. At least sixty-six percent (66%) of property owners must support the Petition for the County to proceed.
 3. Current property owners must sign and return the Petition to count towards a 66% (two-thirds) approval requirement. When there are multiple owners for a property, only one owner may sign.
 4. If 66% is not obtained, re-Petitioning is permitted once per Fiscal Year.
- E. Exception to the Petition Process: As vested by the State of Florida, the Board has the authority to create MSBUs and MSTUs. As a result, nothing contained herein shall prohibit the Board from establishing an entity when determined to be in the best interests of the County.

5.4-2 EXISTING MSTUs/MSBUs

- A. It may be necessary from time to time to amend existing County MSTUs/MSBUs.
- B. Amendments may be the result of activating or inactivating an existing MSTU/MSBU or a revision to the authorized services and/or level of service provided.
- C. Amendments to the existing MSTUs/MSBUs may be identified by County staff or initiated by property owner(s) but require approval by the Board.
- D. Petition: If the request is to activate, inactivate, or substantially change an existing MSTU/MSBU, the same Petition process shall generally be followed as identified above. Substantial changes include the addition to or deletion of services as identified in the governing documents.
- E. Exceptions to the Petition Requirement:

1. If the existing MSTU/MSBU/Dependent Special District has been dormant for more than three (3) consecutive Fiscal Years, the County Manager may recommend the Entity be dissolved without the Petition process;
2. If the cost to collect through the MSTU/MSBU process exceeds the cost of the services being provided, the County may pursue alternative routes for service delivery;
3. If the changes are initiated by the Board or County Manager, or Designee, based on identified and documented need; or
4. If the request does not change the authorized services and the MSBU/MSTU has an active Homeowner's Association, a Petition may not be required. If it is determined that the HOA is active and representative of the neighborhood, the HOA may submit the formal written request to the County along with minutes from an HOA meeting where support for the request was approved by the HOA Board.

5.4-3 ADMINISTRATION

County Neighborhood-serving MSTUs/MSBUs will be provided property management services through the appropriate County department as designated by the County Manager. Property management services will include contracting for services, inspection, invoice payment, budgeting and community outreach for the services authorized. Additional support will be provided by the County's administrative support functions such as Procurement, Budget, Information Technology, etc.

5.4-4 FEES

A. Direct Costs:

1. Applicant Initiated Request: The mailing costs for the Petition and the first year's individual mailed notices for a newly created MSBUs per Section 197.3632, Florida Statutes are the financial responsibility of the applicant. These costs will include the actual mailing costs and the staff-time to process which are required to be pre-paid by applicant.
2. Substantial changes to an existing MSTU/MSBU that require re-noticing via individual mailed notices in accordance with applicable Ordinances and Florida Statutes, for which the costs will be paid from the corresponding MSTU's/MSBU's funds.
3. For those MSTUs/MSBUs which require thorough evaluation to determine the feasibility of a proposed program (i.e., road improvement), in-depth analysis may

be required in order to develop accurate costs of the service. This analysis may include procuring professional services such as engineers and surveyors. The requestor/applicant will be financially responsible for the In-depth Analysis Fee.

- B. Administrative Fee: Providing administration (establishing, amending and/or managing) of an MSTU/MSBU) uses County resources. As such, the Board has determined that the County will impose an Administrative Fee in accordance with any requirements in the establishing Ordinances/Resolutions but shall defray costs incurred. The formula for the Administrative Fee will be established based on the type of service(s) being provided and the associated County time, effort, and actual expenses.

5.5 COMMON FACILITIES DISTRICTS (CFDs)/DEPENDENT SPECIAL DISTRICTS

- A. Dependent Special Districts have their own governing board that may require the support of the County to facilitate services.
- B. Common Facilities Districts are Dependent Special Districts of Osceola County. As such, Osceola County is responsible to monitor the CFDs to ensure they remain in compliance with applicable Ordinances, Florida Statutes and governing documents.
- C. Where authorized by the Board and as designated by the County Manager, County staff may provide support to the Dependent Special District such as the CFDs utilizing County staff for District Clerk services.

5.5-1 NEW CFDs

- A. The creation of a CFD may be initiated by a property owner(s) request or County recommendation.
- B. CFDs will be created in accordance with all applicable Ordinances and Florida Statutes.
- C. Petition: Since the Entity will be a Dependent Special District and the cost of the requested service will be assessed to all property owners of the Dependent Special District, the Board may request a Petition to determine if there is a broad interest in the request prior to proceeding. If the request is initiated by a property owner(s), the Board has determined that a Petition may serve as an indicator of the amount of community interest for the establishment or amendment of citizen-initiated requests for a CFD. The same process, including fees, will be followed as identified in Section 5.4-1 D. If the process is initiated by the County, a Petition may not be required.

5.5-2 EXISTING CFDs

- A. It may be necessary from time to time to amend an existing CFD. All amendments must be approved by the Board.

- B. Amendments could be a result of activating or inactivating an existing CFD or a revision to the level of service/authorized services provided.
- C. Amendments to the existing CFD may be recommended by the CFD Board of Supervisors (Supervisors) or the County.
- D. If the amendment is initiated by the CFD, the Supervisors, by motion during a properly advertised public meeting, may request the Board of County Commissioners consider an amendment to their governing documents.
- E. The Board may further require, at their discretion, the CFD to also facilitate a Petition at the CFD's cost to ensure there is broad support of the CFD's request. In this case, the Petition will follow the process established in this Policy for MSBUs/MSTUs.

5.5-3 FEES

- A. Direct Costs: The same process identified under Section 5.4-4 A., all direct costs will be pre-paid by either the applicant or the CFD/Dependent Special District.
- B. Administrative Fees: When a CFD/Dependent Special District uses the County to provide services, the Board will impose an Administrative Fee that shall defray costs incurred. The formula for the Administrative Fee will be based on the County's actual support costs (including salaries and benefits) and the associated County effort, time, and expenses. These fees will be evaluated annually as a part of the CFD's budget development process to ensure the County's updated actual costs are being incorporated.

5.6 MERGING NON-AD VALOREM ASSESSMENT ROLL

5.6-1 GENERAL PROVISIONS

- A. Osceola County's non-Ad Valorem assessment roll must be merged with the Tax Roll as required by Florida Statutes.
- B. If an executed Interlocal Agreement (ILA) with the Osceola County Property Appraiser is in place, the County may be contracted to maintain the non-Ad Valorem module of the Property Appraiser's Database.
- C. The County Manager will designate the individual(s) responsible for maintaining the data and coordinating directly with outside agencies in order to merge the individual non-Ad Valorem assessment rolls.
- D. The County may provide this service for both County and non-County Entities.

5.6-2 COUNTY MSBUs

- A. As designated by the County Manager, Special Assessments shall maintain the non-Ad Valorem Assessment Roll on behalf of the Property Appraiser for the County's Special Assessments.
- B. The costs associated with this service shall be charged to the individual MSBU and accounted for via a transfer.

5.6-3 NON-COUNTY ENTITIES

- A. As noted under 5.6-1 B., when there is an executed Interlocal Agreement in effect with the Property Appraiser, and as designated by the County Manager, Special Assessments shall maintain the non-Ad Valorem Assessment Roll on behalf of the Property Appraiser for the Community Development Districts (CDD) in the County. In order to provide this service, the CDD must have an agreement with the Property Appraiser, County and Tax Collector.
- B. In accordance with an ILA with the Property Appraiser, the Property Appraiser shall charge non-County Entities utilizing this service a fee. The fee shall provide for reimbursement of necessary administrative costs, including, but not limited to, costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programing.
- C. As identified in the ILA, the Property Appraiser shall invoice and remit to the County any fees collected for reimbursement of administrative costs incurred by the County.

APPENDIX A. - DEFINITIONS

Unless the context otherwise requires, the following terms shall have the meanings set forth below whenever they appear in Chapter 5 of the Administrative Code and/or correlating County Manager Procedures:

“Administrative Code/Code” means the compilation of the Board’s Policy/rules for its operations.

“Administrative Fee” means a charge established to defray costs incurred by the County in support of establishing or amending an MSTU/MSBU or CFD.

“Ad Valorem” means property taxes computed as a percentage of the Just Value of locally assessed real estate, and tangible personal property less any exclusions, differentials, exemptions, and credits and expressed in mills. Ad Valorem taxes are considered general revenue for general-purpose local governments and determined by multiplying the taxable value (assessed value less any exemptions) by the millage rate and dividing by 1,000.

“Board” means the Osceola County Board of County Commissioners that is the duly elected legislative branch responsible for setting policies, adopting ordinances, appropriating funds, etc.

“Common Facilities Districts (CFD)” means Dependent Special Districts created by the Board of County Commissioners in order to maintain common facilities owned by each District.

“Community Development Districts (CDD)” means a local, special-purpose government framework authorized by Chapter 190 of the Florida Statutes as amended and is an alternative to municipal incorporation for managing and financing infrastructure required to support development of a community as an Independent Special District.

“County” means Osceola County, Florida, a charter county and political subdivision of the State of Florida.

“County Administration” means County Manager, Chief Operating Officer, Deputy County Manager(s) and/or Assistant County Manager(s) when acting in the capacity of the County Manager in accordance with approved, written delegation of authority, and determined necessary by the County Manager to assist with overseeing the day-to-day operations of the County.

“County Departments” means a division/area of the County Manager’s organizational chart with a particular area of responsibility.

“County Manager” means the chief executive officer of the County appointed pursuant to Section 2:3 A. of the Osceola County Home Rule Charter, or such person's designee.

“County Manager’s Procedure/Procedure(s)” means an established process in support of the Board’s Policies developed by the relevant staff, reviewed by the County Attorney’s Office, and approved by the County Manager, in order to provide direction to staff in carrying out the day-to-day administration of the County.

“County Special Assessments” means the functional unit of Osceola County that has been assigned the responsibility of administering the duties identified in this Policy.

“Departments’ Administrators/Directors/Head” means executive-level managers assigned to oversee a specific division/area of responsibility in accordance with the County Manager’s Organizational Chart.

“Dependent Special District” means a unit of local special-purpose government with policy-making powers which operates within limited boundaries and is created by Ordinance and is an arm of the County.

“District Clerk” means the County employee that provides administrative services to the Common Facilities Districts as identified in the Master Ordinance, as amended, for the CFDs.

“Entity” means any Municipal Service Benefit Unit, Municipal Service Taxing Unit, Dependent Special District or Community Development District.

“Fiscal Year” means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.

“Homeowners’ Association (HOA): The homeowners’ association created pursuant to Florida Statutes having jurisdiction over the property located within their specific boundaries.

“Independent Special District” means a District that obtains their authority directly from the community they serve through a governing body that serves independent from other government agencies, providing their board members with a high degree of autonomy to fulfill the mission of the district.

“In-depth Analysis Fee” means a charge established to fund professional services, including outside resources such as engineering, design, etc., required from time to time to determine the feasibility of certain improvements and to prepare cost estimates.

“Interlocal Agreement (ILA)” means an agreement between separate government agencies to work together to accomplish common goals and combine resources and services.

“Just Value” means the value of real and tangible personal property established by the Property Appraiser for ad valorem tax purposes as required by Article VII, Section 4 of the Florida Constitution and Chapter 193, Florida Statutes, as amended; generally, the price at which a

property, if offered for sale in the open market, with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent, under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

“Municipal Service Benefit Unit (MSBU)” means a service unit which receives a specific benefit for which a special assessment is imposed to cover the cost of providing the service or improvement that are established by the Board of County Commissioners through an adopted Ordinance or Resolution that outlines the boundaries of the district and the services or improvements to be provided.

“Municipal Service Taxing Unit (MSTU)” means a service unit for which an ad valorem tax levy is imposed to cover the cost of providing a service or improvement, based upon taxable value that are established by the Board of County Commissioners through an adopted Ordinance or Resolution that outlines the boundaries of the district and the services or improvements to be provided.

“Neighborhood-serving MSTUs/MSBUs” means a special district that provides services to the common areas/amenities of the district, that would traditionally be provided by an HOA or CDD, by taxing or assessing the property owners within the community’s boundaries, through the County.

“Ordinances” means the most authoritative form of action taken by the Board, and once adopted, becomes an established law that generally governs matters not already covered by Florida or federal laws.

“Petition” means a formal document, prepared and distributed by Osceola County, used to determine the level of community support for the establishment or amendment of an MSTU, MSBU or CFD.

“Resolutions” means a Board policy presented for the Board’s consideration which only has to be considered by the Board once.

“Special (Non-Ad Valorem) Assessments” means revenue collections resulting from compulsory levies against certain properties to defray part or all of the cost of specific capital improvements or services presumed to be of general benefit to the public and special benefit to the assessed properties that may be imposed when 1) the property assessed will derive a special benefit from the improvement or service provided; and 2) the assessment is fairly and reasonably apportioned among the properties that receive the special benefit.

Safety Policy History — 05/24/93, adopted at special meeting this date already on Chapter 2; amended and restated in its entirety on 05/02/22, Res #22-087R, agenda item #11;

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NEW copied from the previous Chapter 9 History – 02/16/04, created Chapter 9, Res #04-009R;10/20/14, Res #14-101R, agenda item #12; amended and restated in its entirety on 05/02/22, Res #22-087R, agenda item #11 and renumbered from Chapter 9 to Chapter 5;