

North Port City Code Chapter 66 - Road and Drainage District Enabling Legislation

Sec. 66-47. - Legislative intent and purpose.

- (a) Pursuant to authority contained in F.S. chs. 166, 166, 170 and 189, and the City's home rule authority as set forth in applicable Florida law, the City Commission hereby declares its intent and purpose in adopting this Article to provide a municipal service assessment and benefit district within the corporate and outside the corporate limits of this municipality, as hereinafter defined, by creating a Road and Drainage District through which each property is assessed for such services as herein defined, thus creating a financial mechanism for the support of such services on an equitable basis, thus promoting the health, safety and general welfare of its citizens.
- (b) The City Commission further declares:
 - (1) The territory included within the Road and Drainage District constitutes a single municipal community with an integrated system of municipal streets, drainage facilities and other improvements as defined herein, collateral thereto;
 - (2) Due to the sparsity of population and development within the community, the preservation of the integrated system of streets, drainage facilities and other improvements with funds derived from ad valorem taxation would impose an unjust burden on the property owners in the currently developed area within this community;
 - (3) The benefits of the preservation of the integrated system of streets, drainage facilities and other improvements, inures primarily to the benefit of the unit and only incidental and inconsequentially to the public at large; and
 - (4) All public and private real property within the described territory will be specially benefited from the preservation of the integrated system of streets, drainage facilities and other improvements substantially to the extent to which each parcel is served and protected by the integrated system of roads and drainage.
- (c) In furtherance of said declarations, the specific purpose in creating this municipal service assessment and benefit-dependent special district is:
 - (1) To provide roads, streets, boulevards, alleys, sidewalks, bike paths, street lighting, street signs, street markings, drainage, drainage culverts and drainage structures, other improvements as defined herein, and beautification of rights-of-way attendant thereto and maintenance thereof;
 - (2) To review construction and paving plans as an integral part of the development review committee (DRC) regarding all streets and drainage that are subject to this Article;
 - (3) To inspect construction work of developers of all streets and drainage subject to this Article;
 - (4) To carry out the inspection procedure on all streets and drainage subject to this Article, as prescribed by the North Port Unified Land Development Code; and
 - (5) To maintain and operate all roads, drainage facilities and related infrastructure for the benefit of property owned within the District.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-48. - Title.

This Article shall be known and may be cited as the "North Port Road and Drainage District Ordinance."

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-49. - Definitions and word usage.

For the purposes of this Article, the following terms, phrases, words and their derivations shall have the meanings given herein:

Assessment/special assessment/non-ad-valorem assessment. A non-ad-valorem assessment is a charge against assessable real property based on the special benefit provided by the facility as authorized by F.S. chs. 166, 170, 189, and §§ 197.3631 and 197.3632.

Board/governing body. The City Commission of the City of North Port, Florida.

City/municipality. The City of North Port, Florida.

Costs. All costs of operating said District including, but not limited to, acquisition of property necessary for maintenance and storage shops, construction of road maintenance shops and/or improvements thereto, purchase and maintenance of equipment, wages, salaries and benefits for personnel and administrators of the District, advertising of referendums, creation of a reserve account, audit, engineering and legal expenses, reimbursements to any person and/or firm for services performed for the benefit of the District or its residents as approved by the Board, and reimbursement of any moneys advanced by the Board for services provided within the District area.

Director. The Public Works Director who is the District Director of the City of North Port Road and Drainage District or his designee.

District. The North Port Road and Drainage District, situated within and coterminous with the corporate limits of the City of North Port, Florida, as they may be amended from time to time by annexation and contraction of real property.

Improvements. Include, but are not limited to, rights-of-way, construction, reconstruction, repair, paving, repaving, hard-surfacing, rehard-surfacing, widening, guttering and drainage of streets, boulevards, roads and alleys; canals, waterways, drainage culverts and drainage structures; greenbelts, swales, outfalls; primary, secondary and tertiary drains; water bodies, waterways, marshlands and natural areas and beautification of rights-of-way attendant thereto, and may include facilities and equipment necessary or incidental to such improvements.

Real Property. All specially benefited real property located within the territorial boundaries of the City, regardless of ownership.

Road/street/roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, inclusive of the berm or shoulder, including drainage appurtenances, but not limited to culverts, guardrails and sidewalks. The term "street" shall include roads, boulevards and alleys wherever the context may so require and may include right-of-way.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-50. - Establishment; boundaries.

- (a) Pursuant to authority contained in F.S. ch. 189, which provides that the creation of a dependent special district shall be adopted by ordinance of the municipality having jurisdiction over the area affected, the City Commission of the City of North Port, Florida, the same being the duly elected governing body of said municipality, hereby creates and

establishes the North Port Road and Drainage District, wholly situated within the corporate limits of this municipality, the boundaries of which are the corporate limits of the City of North Port, including all annexations and deannexations to the municipal corporate limits as they occur, and officially annexed or deannexed by the City Commission of the City of North Port, Florida, territorial bounds in order to provide for funds for the purpose of said District. The furnishing of Road and Drainage District service in accordance with the purposes of the District area is hereby declared to specially benefit all real properties within the territorial bounds of the District, whether government or privately owned. The cost of providing Road and Drainage District service within the District is commensurate with the special benefit provided to all real properties within the District.

- (b) The governing body may establish a schedule of non-ad-valorem assessments by resolution, based upon different uses of all specially benefited real property or any other equitable method of allocating costs and benefits to benefited real property. The governing body may at any time amend, by resolution, the adopted schedule of non-ad-valorem assessments.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-51. - Governing body.

The City Commission of the City of North Port, Florida, is governing body of the District, and shall have the full authority granted by the Florida Statutes, the City of North Port Charter, this Article, and the City's home rule authority, conferred under applicable Florida law to carry out the intent and purpose of this Article.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-52. - Powers and duties.

- (a) The District is charged with the authority and responsibility:
- (1) To provide for the acquisition of lands and rights-of-way and the construction, reconstruction, repair, paving, repaving, hard-surfacing, rehard-surfacing, widening, guttering and drainage of streets, boulevards, roads and alleys, sidewalks or bike paths, street lighting, signs, markings, traffic control devices, canals, drainage culverts and drainage structures, waterways and other improvements, and beautification of rights-of-way attendant thereto;
 - (2) To review construction and paving plans as an integral part of the Development Review Committee (DRC) for all streets and drainage that are subject to this Article;
 - (3) To inspect construction work of developers of all streets and drainage subject to this Article;
 - (4) To carry out the inspection procedure for all streets and drainage subject to this Article, as required by the City of North Port Unified Land Development Code and by the general laws of the State of Florida; and
 - (5) To require and grant permits for the placement of structures, signs and other fixtures upon the right-of-way within the City of North Port.
- (b) The North Port Road and Drainage District does hereby acknowledge that upon the effective date of the dissolution of the North Port Water Control District, pursuant to Laws of Fla. chs. 94-425 and 94-483, the North Port Road and Drainage District shall have the responsibility for assuring the integrity of the potable water supply for the citizens of the City of North Port which is currently being withdrawn from the canals of the North Port Water Control District.
- (c) The North Port Road and Drainage District shall:

- (1) Have the full powers, duties and responsibilities of the North Port Water Control District;
 - (2) Assume all assets, liabilities, powers, duties and responsibilities of the North Port Water Control District;
 - (3) Protect and maintain the integrity of drainage facilities and water sources;
 - (4) Assure that the financial obligations it assumes from the North Port Water Control District may be paid in a timely manner;
 - (5) Assume existing relevant policies and procedures of the North Port Water Control District consistent with general law, City Charter and law of the City of North Port; and
 - (6) Update methodology and rate studies at least every three years.
- (d) The governing body shall have all of the powers granted by the City Charter, the general laws of the State of Florida, and the City's home rule authority as may be necessary or proper to carry out the intent and purpose of the District. In addition thereto, the governing body shall have the following specific powers and authority:
- (1) To pay all costs of the District including, but not limited to, acquisition, improvement and operation of Road and Drainage facilities and equipment for the providing of Road and Drainage service. The District shall reimburse the City for all actual costs incurred by the City.
 - (2) To purchase, with or without bids, pursuant to the City's procurement codes, F.S. ch. 255, and other applicable general and special law, all necessary Road and Drainage equipment and all other equipment and supplies deemed necessary to carry out the purposes of the District, purchase all necessary real and personal property, and sell surplus real and personal property in the same manner and subject to the same restrictions as provided for such sales by municipalities.
 - (3) To enter into contracts with other Road and Drainage Districts, municipalities, counties, and state and federal governmental units for the purpose of obtaining financial aid assistance or benefits expanding services, providing effective mutual aid, and for otherwise carrying out the purposes of the District.
 - (4) To enter upon any lands, premises and properties within said District for any purposes necessary to carry out the objectives of this Article.
 - (5) To establish, by resolution, a schedule of fees and charges for the rendering of Road and Drainage services, to bill for such charges, and to take all legal action necessary to collect charges.
 - (6) To increase or decrease the District's non-ad-valorem assessment for Road and Drainage service by resolution, without referendum or ordinance, including the power to increase or decrease the non-ad-valorem assessments for individual properties which do not receive a special benefit or are otherwise exempt from the non-ad-valorem assessment as permitted in F.S. § 197.3632. Any decrease in an individual non-ad-valorem assessment, whether preexisting or for a current tax year, shall result in an identical increase to the District's budget funded from any City revenue source.
 - (7) To dispose of the District's surplus real and personal property supplies and equipment, pursuant to F.S. ch. 287, and other applicable general law.
 - (8) To participate in State retirement and pension plans for the benefit of employees if eligible.
 - (9) To borrow moneys for the purposes of the District, provided that any borrowing shall comply with the limitations and requirements of the Constitution, the general laws of the State of Florida and the North Port City Charter. The District shall have the power

to issue bonds, notes, or other debt instruments from time to time, without limitation as to amount. Such bonds may be secured by non-ad-valorem assessments and any other legally available moneys of the District. Such bonds shall not constitute a general obligation or a pledge of the full faith and credit of the City or District. Two or more projects may be combined and consolidated into a single project and may be operated and maintained as a single project. The bonds, notes, or other debt instruments authorized may be issued to finance or refinance any one or more of such projects regardless of whether or not such projects have been combined and consolidated into a single project. If the City Commission deems it advisable, the proceedings authorizing such bonds, notes, or other instruments may provide that the District may thereafter combine the projects then being financed or theretofore financed with other projects, to be subsequently financed by the District and that bonds, notes or other debt instruments to be thereafter issued by the District shall be on parity with the bonds, notes, or other debt instruments then being issued all on such terms, conditions and limitations, that have been provided in the proceeding which authorized the original bonds, notes, or other debt instruments.

- (10) To enter into leases and lease-purchase arrangements relating to properties both real and tangible needed for District purposes for periods not to exceed 30 years at a stipulated rental to be paid from current or other legally available funds and to make all other contracts and arrangements necessary or convenient to carry out such objectives. Such leases and lease-purchase arrangements may be with private individuals, governmental agencies or corporations.
- (11) To exercise any other powers provided by ordinance supplemental or amendatory hereto, adopted by the governing body without referendum election.
- (12) To delegate the authority to the City Manager to execute contracts on behalf of the District for the expenditure of appropriated funds.
- (13) To negotiate and enter into other contracts, including collective bargaining agreements.
- (e) The governing body may acquire, by gift, purchase, grant, dedication or condemnation, any lands or rights in land as may be necessary for the purpose of the District, including any property, whether real or personal, as may be necessary, desirable or convenient for the providing of Road and Drainage service within the District. The exercise of the power of eminent domain shall be in accordance with the provision of F.S. chs. 73 and 74, and the District is hereby specifically conferred with the authority to avail itself of all the powers as set out in said Articles, as the same may from time to time be amended.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-53. - Public works director; district director.

- (a) The City Manager shall appoint a Public Works Director who shall serve until said appointee shall resign or shall be terminated by the City Manager.
- (b) The Public Works Director shall be the District Director of the Road and Drainage District and shall answer directly to the City Manager. The Public Works Director shall be responsible to direct the District toward its primary objective and assume overall management of the Road and Drainage District.
- (c) The Public Works Director is hereby authorized to hire and fire District employees subject to the rights afforded District employees under any collective bargaining agreement, City personnel policy, and with the approval of the City Manager. All other personnel actions including promotions, demotions and disciplinary actions, are at the sole discretion of the

Public Works Director or his designee, in accordance with City personnel policy and any collective bargaining agreements.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-54. - Finances.

- (a) The City Director of Finance is hereby designated as the Financial Officer of the District and shall cause the necessary financial ledgers and journals to be instituted in the name of the District, which shall be separate and distinct from any and all other accounts to ensure proper and accurate financial accountability for all receipts and disbursements of the District, and shall subject the same for audit.
- (b) Budgeting, accounting, auditing, cash, debt and financial management and reporting of the District shall be in accordance with applicable federal law, Florida Statutes and administrative rules and general City ordinances and administrative procedures.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-55. - Levy and collection of non-ad-valorem assessments.

- (a) The governing body shall have the duty, right, power and authority, to levy by resolution, and collect non-ad-valorem assessments against all real property specially benefited within its territorial bounds, whether government or privately owned, in order to provide funds for the purpose of said District. The furnishing of Road and Drainage service in accordance with the purposes of the District area is hereby declared to be beneficial to all real properties within the territorial bounds of the District. The cost of providing Road and Drainage service within the District is commensurate with the special benefit provided to all real properties within the District.
- (b) The governing body may establish a schedule of non-ad-valorem assessments, by resolution, based upon different uses of real property or any other equitable method of allocating costs and benefits to benefited real property. The governing body may at any time amend, by resolution, the adopted schedule of non-ad-valorem assessments.
- (c) The Road and Drainage District may bill all governmental properties not otherwise immune or exempt from non-ad-valorem assessments including, but not limited to, those governmental properties owned by State, Counties and the City of North Port, for the rendering of District services. The District shall take all legal action necessary to collect charges.
- (d) The governing body may supplement the funds available for budgeted District expenditures from other revenue sources of any kind, including the City of North Port. The appropriation to the District of additional revenue sources shall be by resolution and/or ordinance, and shall otherwise comply with the requirements of the North Port Charter, North Port City Code, the Florida Statutes and Florida Constitution.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-56. - Certification of taxable value; collection of fees; compensation of appraiser and collector.

- (a) Pursuant to F.S. § 197.3632, the governing body shall, by resolution, state its intention to use the uniform method for the levy collection and enforcement of non-ad-valorem assessments. The annual non-ad-valorem assessments shall be placed on the annual ad valorem property tax bill of the specially benefited property and shall be collected by the Tax

Collector of Sarasota County. The governing body shall certify the non-ad-valorem assessment roll on compatible electronic medium to the tax collector in and for the County of Sarasota, pursuant to F.S. § 197.3632(5), on or before September 15 of each year.

- (b) The governing body shall enter into a written agreement with the tax collector as provided in F.S. § 197.3632(2), for reimbursement of necessary administrative costs incurred in implementing the uniform methodology law.
- (c) The governing body may enter into a written agreement with the property appraiser as provided in F.S. § 197.3632, for reimbursement of necessary administrative costs incurred in providing the District, by list or compatible electronic medium, the description of the specially benefited properties within the boundaries of the District and names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform in format to that contained on the ad valorem assessment roll submitted to the Department of Revenue.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-57. - Non-ad-valorem assessments to constitute liens.

The non-ad-valorem assessments authorized by this Article shall constitute a lien upon the land so assessed, and shall be collected in the same manner as the municipal ad valorem property taxes. Said lien shall continue until the said non-ad-valorem assessments have been paid, and if the same becomes delinquent, shall be considered a part of the municipal tax subject to the same penalties, charges, fee and remedies for enforcement and collection as provided for the collection of ad valorem property taxes, pursuant to the laws of the State of Florida. Said non-ad-valorem assessments shall become liens against the property upon the finalization of the assessment roll.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-58. - Term of existence.

The District shall continue to exist until dissolved in accordance with the general laws of the State of Florida. Should any part of lands included in the District established, pursuant to the provisions of this Article, be held not to be included therein, then the provisions of this Article shall continue in effect as to the remaining said lands.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-59. - Claims against district.

No suit or action or proceeding shall be instituted or maintained in any court against the District or the governing body or any member of the governing body for or upon any claim, right or demand, unless the claimant has complied with the provisions of the City Charter and the general laws of the State of Florida.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-60. - Meetings.

- (a) The Board shall govern itself as set forth within F.S. chs. 119, 189 and 286.
- (b) The Board shall schedule and convene regular public meetings pursuant to F.S. § 189.417. The schedule of the District's regular meetings shall be filed with the City Clerk and the schedule shall be published annually in a newspaper of general circulation. Notice of the

District's regular meetings other than emergency or recessed meetings shall be advertised at least seven days prior to such meetings in a newspaper of general circulation. Emergency meetings may be convened after reasonable notice has been given in the same manner in which such meetings are called by the City Commission.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-61. - Attorney to board.

The City Attorney or his designee shall serve as attorney of record to the Board. Attorney's fees for services rendered may be borne by the District as approved by the Board.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-62. - Culvert and right-of-way use permits.

- (a) Pursuant to authority of this Article, the District has the power to require permits for the placement of structures, signs and other fixtures within the Road and Drainage right-of-way of the City of North Port.
- (b) The governing body shall, by resolution, adopt procedures for the issuance of permits for the placement of structures, signs and other fixtures within the Road and Drainage right-of-way of the City of North Port.
- (c) Except as otherwise provided in this section, no person shall construct, install, place or maintain structures, signs or other fixtures within the Road and Drainage right-of-way of the City of North Port without a currently valid permit issued by the District.
- (d) Right-of-way use permits shall not be required for the temporary placement of garage sale signs.
- (e) Right-of-way use permits shall not be required for the temporary placement of real estate "Open House" signs provided that such temporary placement is in compliance with the following terms and conditions:
 - (1) No more than three directional signs may be placed within the City right-of-way per "open house".
 - (2) Directional signs shall not exceed two square feet in size.
 - (3) The name, address and telephone number of the person placing the "Open House" sign within the City right-of-way and the date of the open house shall be written on each sign.
 - (4) No more than three "Open House" signs may be placed within the City right-of-way adjacent to the real property for sale. Such signs shall not exceed four square feet in size.
 - (5) "Open House" signs may be placed within the City right-of-way from dawn to dusk on the day the open house is to be conducted.
 - (6) All "Open House" signs must be removed from the City right-of-way by dusk on the day(s) the open house is conducted.
 - (7) No "Open House" sign may be nailed, fastened or affixed to any tree, utility pole, street sign or any traffic control device.
- (f) The construction, installation, placement or maintenance of structures, signs or other fixtures within the Road and Drainage right-of-way of the City of North Port, without a currently valid permit issued by the District or in violation of the terms and conditions of this Section shall constitute a violation of this Article.
- (g)

Any structure, sign or other fixture constructed, installed, placed or maintained within the Road and Drainage right-of-way of the City of North Port, without a currently valid permit issued by the District or in violation of the terms and conditions of this Section, shall constitute a public nuisance and may be removed by the District as provided by law.

- (h) All "Open House" signs shall be set back a minimum of 15 feet from the travel lane or, in the absence of a 15-foot right-of-way area, "Open House" signs shall be set back one-half of the distance of the right-of-way area from the travel lane.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-63. - Prohibition of hazardous activities on or near district property.

- (a) The Board does hereby prohibit the following hazardous activities on or near water control structures within its jurisdiction: tampering with, loitering or trespassing on, diving or fishing from, boating within 50 feet of, or feeding alligators from any water-control structure.
- (b) The Director shall be responsible for ordering the posting and maintenance of signs expressly prohibiting these hazardous activities pursuant to subsection (a) above.
- (c) It shall be unlawful for any person to engage in those activities prohibited by this Section.
- (d) Any person violating this Section may be subject to fines and penalties as set forth by Ordinance as amended from time to time.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)

Sec. 66-64. - District consistent with comprehensive plan.

At the time of creation and continuing through adoption of the most recent amendment to the enabling legislation for the District, the District is consistent with the City of North Port's adopted Comprehensive Plan.

(Ord. No. 08-11, § 1(Exh. A), 7-28-2008)