

ORDINANCE NO. 81 - 27

AN ORDINANCE ESTABLISHING PROCEDURES BY WHICH THE BOARD OF COUNTY COMMISSIONERS MAY PROVIDE FOR LOCAL SERVICES OR IMPROVEMENTS ON A SPECIAL ASSESSMENT BASIS, UPON ITS OWN INITIATIVE OR UPON PETITION OF OWNERS TO BE BENEFITTED THEREBY; PROVIDING REQUIREMENTS AND FORM OF PETITIONS; PROVIDING FOR ENACTMENT OF SPECIFIC ORDINANCE FOR THE SERVICE OR IMPROVEMENT, ITS PUBLICATION AND ADOPTION; PROVIDING FOR IMPLEMENTATION OF SERVICES OR IMPROVEMENT; PROVIDING FOR PREPARATION OF PRELIMINARY ASSESSMENT ROLL AND HEARING THEREON; PROVIDING FOR NOTICE TO OWNERS; PROVIDING FOR FINAL ASSESSMENT ROLL; PROVIDING FOR PAYMENT OF ASSESSMENTS; PROVIDING FOR ASSESSMENTS TO CONSTITUTE A LIEN; DESIGNATING ENTITIES SUBJECT TO ASSESSMENT; AUTHORIZING SALE OF LIENS; PROVIDING FOR CORRECTIONS IN THE ASSESSMENT ROLL; PROVIDING AUTHORITY TO BORROW FUNDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF PRIOR AND CONFLICTING LAWS AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA:

SECTION I: The Authorization. The Board of County Commissioners of Indian River County is authorized to improve and establish services and improvements. Such services and improvements, performed or constructed according to County standards, to include:

- a. Streets and Roads
- b. Water and Sewage Systems
- c. Water and Sewage Treatment Plants
- d. Drainage
- e. Streetlighting
- f. Sidewalks
- g. Such other services or facilities which may be deemed essential. .

The Board is authorized to provide for the payment of the whole or any part of the cost thereof by levying and collecting special assessments upon property deemed to benefit by such improvement.

Procedures which may be used for determining benefit shall include but not be limited to:

- a. Front footage, including a flat rate front foot charge for similar projects
- b. Area benefited
- c. Distance from improvement
- d. A combination of such methods
- e. The establishment of a benefit district which shall include all property within fixed boundaries.

SECTION II: Petition by Owners. Whenever two-thirds or 66.7 percent, or more, of the owners of the lands involved in the benefited area or the owners of two-thirds or 66.7 percent, or more, of the lands involved in the benefited area deem it desirable to make demand in writing by petition, as hereinafter provided, that the County Commission make improvements or provide a service, and after public hearings to determine practicality and feasibility, the County Commission may adopt and enact, if it so desires, all appropriate and legally required ordinances or resolutions to make the improvements or provide the services designated in the written petition.

SECTION III: Form of the Petition. The petition shall contain the following information:

- a. Specific designation of the boundaries of the area to be improved
- b. Specific designation of the improvements required
- c. Specific statement of the total number of feet of lots or land to be benefited by the improvements demanded
- d. Signatures of two-thirds or 66.7 percent, or more, of the owners of the lands involved in the benefited area or the owners of 66.7 percent, or more, of the lands involved in the benefited area. The specific legal description of the lots or land shall be set forth opposite the name or names of the signer or signers of the petition.
- e. Property ownership map.

SECTION IV: Submission of the Petition. The petition shall be submitted to the County Administrator for administrative evaluation and review and for his recommendations to the County Commission.

SECTION V: Initiation by County Commission. The Commission may initiate services and/or make improvements in its discretion and without petition. The Commission shall define the area to be included in such a special benefit area and shall have prepared a cost estimate of the project to be undertaken.

SECTION VI: Preparation of the Resolution. When the Commission shall determine to make an improvement or provide a service,

then it shall so declare by resolution stating the nature of the proposed improvements, the total estimated cost, the method of payment of assessments, the number of annual installments and the legal description of area specially benefited.

The estimated cost of the services and/or improvement shall include an estimate of the cost of preliminary and other surveys, inspection and superintendence of work; the preparation of the plans, specifications and estimate; the printing and publishing of notices and proceedings; the preparation and issuance of certificates, and any other expenses attributable to the service or improvement.

SECTION VII: Publication of Proposed Resolution. The resolution to be adopted shall be published in a newspaper of general circulation in the area benefited once at least 15 days prior to adoption at any regular or special meeting of the Board of County Commissioners.

SECTION VIII: Adoption of Resolution. At the time and place designated in the notice, said Commission shall conduct a public hearing on the proposed resolution and may adopt or reject same.

SECTION IX: Implementation of Services or Improvements. Upon passage of the resolution, the proposed project shall thereafter be specially designated and placed upon a special improvement work list for implementation, in proper sequence with other such projects, said project being conditioned upon the availability of funds in the Special Improvement Fund or Account.

SECTION X: Preparation of the Preliminary Assessment Roll. At a convenient and reasonable time before beginning work, said Commission shall cause to be prepared a preliminary assessment roll containing property descriptions and preliminary assessment of cost against each lot or parcel of land benefiting from such improvement.

SECTION XI: Hearing to Consider Preliminary Assessment Roll. Upon completion of the preliminary assessment roll the Commission shall cause to be published once in a newspaper of general circulation in the benefited area a notice stating that such a preliminary assessment roll has been completed and is on file in the office of

the County Administrator, and is open to public inspection and that at regular meeting of said Commission on a certain day and hour, not earlier than 15 days from said publication, said Commission will hear all interested persons regarding the proposed assessments contained in the preliminary assessment roll, which notice shall further state in brief and general terms a description of the improvement with the location thereof.

SECTION XII: Notification of Property Owners. At least 15 days prior to the date of such hearing notice by certified mail shall be sent to each person whose name and address is known or may be reasonably ascertained who is the owner of any lot or parcel of land assessed, advising him of the nature of the proposed improvements, the estimated cost thereof, the specific amount of assessment made against each lot or parcel of land so owned by him or listed in his name, and of the place, date and time of the hearing upon the assessments as hereinabove provided.

SECTION XIII: Preparation of Final Assessment Roll. On or after the hearing provided for in this ordinance, the Commission shall either annul or sustain or modify in whole or in part the preliminary assessment indicated on the preliminary assessment roll, either by confirming the preliminary assessment against any or all lots or parcels described therein, or by cancelling, increasing or reducing the same, according to the special benefits which said Commission decides each lot or parcel has received or will receive by virtue of said improvement, but shall not confirm any assessment in excess of the special benefit to the property assessed or in excess of the flat rate approved and adopted for such projects.

Immediately after the determination of special assessments as hereinbefore provided, the special assessment roll as sustained or modified shall be delivered to the Clerk of Indian River County and such determination of special assessments shall be final and conclusive.

SECTION XIV: Payment of Assessment. Assessments made hereunder shall become due and payable at the Office of the Tax

Collector ninety days after the final determination of the special assessments as hereinbefore provided; all assessments not paid within said period shall thereupon become payable in equal annual installments in each of the ten succeeding years with interest established by the Board of County Commissioners from the expiration of said thirty days, payable annually, unless the Commission shall fix a shorter period for the payment of annual installments; but any assessment becoming so payable in installments may be paid at any time together with interest accrued thereon to the date of the payment.

SECTION XV: Assessments to Constitute a Lien. All special assessments for any improvements or services under the provisions of this law shall constitute liens upon the property assessed from the date of the adoption of the resolution ordering the improvement and shall be of the same nature and to the same extent as liens for general county taxes.

Collection of such special improvement assessment liens with such interest and penalties and with reasonable attorney's fee shall be made by foreclosure in the same manner as is provided for the foreclosure of mortgages, and it shall be lawful to join in any such foreclosure any one or more lots or parcels of land, by whosoever owned upon which such liens are delinquent, if assessed for special improvements made under the provisions of this ordinance.

Failure to pay any installment of principal or interest of any assessment lien within 90 days of when such installment is due shall without notice or other proceedings cause all installments of principal remaining unpaid to be forthwith due and payable with interest due thereon at date of default; but if before the sale of the property at foreclosure payment of the amount of such delinquency shall be paid with all penalties, interest, costs and attorney's fees, further installments of the principal shall cease to become due and payable and shall be due and payable at the time at which the same would be due if such default had not occurred.

SECTION XVI: Entities Subject to Assessment. Indian River County and each school district, municipality or other political subdivision owning property which will benefit from the improvement

for which special assessments are made shall possess the same power and be subject to the same duties and liabilities with respect to the assessments under this ordinance affecting the real estate of such county, district, municipality or political subdivision which private owners of real estate possess or are subject to herein. Such real estate shall be subject to the liens of assessments in all cases to the same extent as if it had at the time of the lien attached been owned by a private owner.

SECTION XVII: Authority to Sell Liens. For the purposes of financing of the special improvements made under the provisions of this ordinance, the County may sell or agree to sell any or all of the special assessment liens assessed against the property benefited. Said liens shall be evidenced by special improvement lien certificates signed by the Chairman of the Board of County Commissioners and attested by the Clerk and shall be assigned by the County without recourse against the County in the event of a failure of payment. Said liens may be enforced by the person, firm or corporation to whom assigned or anyone holding them in the same manner as the County as provided by this ordinance, and the holder of such special improvement lien certificates may sue in their own names to enforce such liens.

SECTION XVIII: Correction of Errors in the Assessment Roll. In case of any omission, error or mistake in making up the assessment roll, imposing special benefit assessment liens, or in issuing special improvement lien certificates, the Commission may, at any time, correct such omission, errors or mistakes by resolution upon its own motion, provided such correction does not impose a greater special improvement assessment lien on any such lot or parcel of land. Any such correction which increases any such special benefit assessment lien on any lot or parcels of land or which adds any additional lots or parcels of land shall, in the absence of written consent by the property owners involved, be made only by re-accomplishing each and every procedural requirement of this ordinance subsequent to the occurrence of such omissions, errors or mistakes.

SECTION XIX: Authority to Borrow Funds. The County is authorized to borrow from any available sources such sums of money

as are necessary to defray the entire cost of such improvements; provided, however, the only security for such a loan shall be the assignment of the special improvement lien certificates to be issued for special improvements.

SECTION XX: Severability. If any one or more of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provisions shall be null and void and shall be deemed severable from the remaining provisions of this ordinance and in no way shall affect the validity of all other provisions of this ordinance.

SECTION XXI: Repeal Prior and Conflicting Ordinances. That all sections or parts of sections of the Code of Ordinances of Indian River County, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION XXII: Effective Date. A certified copy of this ordinance shall be filed in the Office of the Secretary of State by the Secretary to the Board of County Commissioners within ten (10) days after enactment, and this ordinance shall take effect upon receipt of official acknowledgment from that office that said ordinance has been filed.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE VERO BEACH CITY HALL, IN THE CITY OF VERO BEACH, FLORIDA, THIS 5th DAY OF August, A.D. 1981.

This Ordinance shall take effect August 10, 1981.

STATE OF FLORIDA
INDIAN RIVER COUNTY
THIS IS TO CERTIFY THAT THIS IS
A TRUE AND CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS
OFFICE.

FREDA WRIGHT, CLERK
BY Janice M. Caldwell, D.C.
DATE 8-7-81