

ORDINANCE No. 2005-42-80

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, IMPOSING AN ANNUAL MONITORING FEE FOR COMMUNITY DEVELOPMENT DISTRICTS LOCATED WHOLLY WITHIN THE CITY'S BOUNDARIES; PROVIDING FOR DISCLOSURE REQUIREMENTS FOR COMMUNITY DEVELOPMENT DISTRICTS; PROVIDING FOR PENALTIES; PROVIDING AUTHORIZATION TO THE CITY ATTORNEY; PROVIDING ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, currently there are three (3) Community Development Districts ("CDD") located wholly within the City of Miami Gardens' borders, and

WHEREAS, it is anticipated that there may be additional CDDs created within the City's, and

WHEREAS, the City intends to monitor the CDD's located within its boundaries to ensure that they are fulfilling their stated purpose and to do the following:

- a) Review the CDD's proposed operating and capital budgets and related assessments and make comments back to the Districts;
- b) Review the CDD's infrastructure status to determine if they are sufficiently being maintained;
- c) Answer questions from CDD property owners and residents about the CDD's operation, management, election process and other areas that may fall under the City's control;
- d) Include the CDD's operations in the inter-governmental coordination element of the City's Comprehensive Plan and update this element from time to time.

- e) Consider the burden on the property owners residing in the CDDs when assessing the City's needs at the whole when levying property taxes voted debt service proposals, and other special assessments;
- f) Consider that another level of government is responsible for certain infrastructure maintenance and improvements when preparing long-range capital and improvement programs; and
- g) Consider how to coordinate emergency relief measures with FEMA and state agencies when the need arises; and
- h) Take any and all actions to ensure proper and thorough monitoring of the CDD's located within the City's boundaries to ensure that they are fulfilling their stated purpose, and

WHEREAS, the Attorney General has opined that pursuant to the provisions of Chapter 189, Florida Statutes, a municipality is authorized to monitor a CDD created to Chapter 190, Florida Statutes, when it is located wholly within the boundaries of a municipality, and

WHEREAS, the City Manager deems it in the best interest of the City from a fiscal perspective to impose a monitoring fee for CDDs developed within the boundaries of the City of Miami Gardens,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. IMPOSITION OF FEE: There is hereby imposed an annual monitoring fee in an amount to be established by separate resolution on all Community Development Districts located wholly within the boundaries of the City of Miami Gardens. The fee shall be due and payable as of October 1st of each year.

SECTION 3. PURPOSE OF THE FEE: The fee imposed here under shall be used to offset the administrative cost to the City for doing the following:

- a) Reviewing the Districts' proposed operating and capital budget and related assessments and make comments back to the Districts;
- b) Reviewing the Districts' infrastructure status and determine if it is sufficiently being maintained;
- c) Answering questions from District property owners and residents about the Districts operation, management, election process and other areas that may fall under the City's control;
- d) Including the Districts' operations in the inter-governmental coordination element of the City's Comprehensive Plan and update this element from time to time.
- e) Considering the burden on the property owners residing in the District when assessing the City's needs at the whole when levying property taxes voted debt service proposals, and other special assessments;
- f) Considering that another level of government is responsible for certain infrastructure maintenance and improvements when preparing long-range capital and improvement programs; and
- g) Considering how to coordinate emergency relief measures with FEMA and state agencies when the need arises; and
- h) Taking any and all actions to ensure proper and thorough monitoring of the CDD's located within the City's boundaries to ensure that they are fulfilling their stated purpose.

SECTION 3. DISCLOSURE REQUIREMENTS: All Community Development Districts that are subject to this Ordinance, shall provide the City with the following information:

- a. Proposed and final operating budgets and capital budgets.

- b. Information relating to assessments, upon request.
- c. Information relating to infrastructure, upon request.
- d. Information relating to the District's operation, management, and processes, upon request.

SECTION 4. PENALTY: All fees not said by October 1st of each year shall be considered delinquent and shall be subject to a delinquency fee of ten percent (10%) for the month of October, plus an additional five percent (5%) penalty of each month of delinquency thereafter, until paid.

SECTION 5. AUTHORITY TO THE CITY ATTORNEY: The City Attorney is hereby authorized to institute actions to enforce the provisions of this Ordinance and to recover all fees, penalties, interest, and costs incurred, after demand therefore has been made by City and the payment refused by the District.

SECTION 6. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 7. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 9. EFFECTIVE DATE: This Ordinance shall become effective

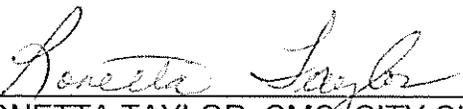
immediately upon its final passage.

PASSED ON FIRST READING ON THE 7th DAY OF NOVEMBER, 2005.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 14TH DAY OF DECEMBER, 2005.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC/CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: Dr. Danny O. Crew, City Manager

MOVED BY: Vice Mayor Braynon

SECONDED BY: Councilwoman Watson

VOTE: 7-0

Mayor Shirley Gibson	x	___	(Yes)	___	(No)
Vice Mayor Oscar Braynon, II	x	___	(Yes)	___	(No)
Councilman Melvin L. Bratton	x	___	(Yes)	___	(No)
Councilman Aaron Campbell	x	___	(Yes)	___	(No)
Ulysses Harvard	x	___	(Yes)	___	(No)
Councilwoman Sharon Pritchett	x	___	(Yes)	___	(No)
Councilwoman Barbara Watson	x	___	(Yes)	___	(No)

SKD/bfc

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City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilman Ulysses Harvard
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson

MEMORANDUM

To: The Honorable Mayor and City Council
From: Dr. Danny O. Crew, City Manager
Date: December 14, 2005
Re: Community Development District Monitoring Fee

Developers of new subdivisions often use a technique called a "Community Development District" or CDD to finance the public improvements associated with the development. These include water, sewer, roads and drainage. This financing vehicle allows a developer to use bonds to finance the cost of this infrastructure.

Currently the City has two established CDDs, Jonathan's Landing and Coconut Cay. Since this infrastructure will one day belong to the City, and the residents of the district are City residents, it is important that the City monitor CDD activity to ensure that the infrastructure is properly maintained, and that the obligations and duties of the CDDs are carried out.

To this end, staff recommends that the City charge a modest fee to the CDD for this monitoring activity. The recommended fee would be \$1,000 or \$10 per unit per year, whichever is greater. This will cover the costs of such monitoring.

RECOMMENDATION: I recommend that City Council approve the CDD fee ordinance.