

ORDINANCE NO. 90-1

AN ORDINANCE RELATING TO HERNANDO COUNTY, PROVIDING FOR BENEFITING PROPERTIES ABUTTING COUNTY ROADS, WHEN THE OWNERS OF TWO-THIRDS OF THE PROPERTY ABUTTING SUCH ROADS SO PETITION THE BOARD OF COUNTY COMMISSIONERS, BY PAVING, RE-PAVING, GRADING OR DRAINING SUCH ROADS; PROVIDING THE PROCEDURE WHEREBY THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE SUCH SPECIAL IMPROVEMENTS TO BE ACCOMPLISHED AND THE COSTS THEREOF ASSESSED AGAINST ALL ABUTTING PROPERTY OWNERS BENEFITED THEREBY; PROVIDING FOR AN ASSESSMENT ROLL AND THE IMPOSITION OF LIENS AGAINST ALL SUCH PROPERTIES THE RECORDING OF SAME, THEIR METHOD OF PAYMENT AND COLLECTION; PROVIDING FOR ISSUANCE OF SPECIAL IMPROVEMENT LIEN CERTIFICATES AND THEIR ASSIGNMENT WITHOUT RECOURSE AGAINST THE COUNTY; AUTHORIZING THE COUNTY TO DO THE IMPROVEMENTS OR CONTRACT THEREFOR WITH PRIVATE PARTIES AND PROVIDING THE METHOD OF PAYMENT THEREFOR; AUTHORIZING THE COUNTY TO BORROW MONEY FOR SUCH IMPROVEMENTS UPON THE SECURITY OF THE LIENS FOR SUCH IMPROVEMENTS; AUTHORIZING THE COUNTY TO CORRECT AND MODIFY SUCH IMPROVEMENT LIENS IN THE EVENT OF OMISSIONS, ERRORS OR MISTAKES; DECLARING THAT THE PROCEDURES OF THIS ACT ARE SUPPLEMENTAL; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Definitions. The following words and phrases when used in this Ordinance shall have the following meanings, except in those instances where the context clearly indicates a different meaning.

(a) County shall mean the County of Hernando.

(b) Board shall mean the Board of County Commissioners of Hernando, County.

(c) Special Benefit shall mean a benefit accruing to property that is the subject of a special assessment made hereunder, which benefit is different in type or degree from benefits realized by the community as a whole.

Section 2. Power of the Board of County Commissioners to Provide for Special Assessments.

(a) The Board is hereby empowered to provide for the following kinds of improvements (hereafter "improvements") by levying and collecting in the unincorporated areas of the County special assessments on the real property specially benefited thereby:

(1) The construction, reconstruction, repair, paving, repaving, surfacing, widening, guttering, lighting and draining of streets, boulevards, alleys, and sidewalks;

(2) The construction, reconstruction, repair, renovation, excavation, dredging, grading, stabilization, and upgrading of greenbelts, swales, culverts, sanitary sewers, storm outfalls, canals, primary, secondary, and tertiary drains, water bodies, marshlands, natural areas, and all or part of a

comprehensive stormwater management system, including the necessary appurtenances and structures thereto and including, but not limited to dams, weirs, and pumps;

(3) The construction or reconstruction of water and/or sewer mains, laterals, and other distribution facilities, including the necessary appurtenances thereto;

(4) The draining and reclamation of wet, low, or overflowed lands; and

(5) The construction, reconstruction and repair of seawalls and other structures for the prevention or control of erosion.

(b) The Board may include in the assessments all or any of the cost of the improvements whether incurred before or after the improvements are authorized by the Board. The cost of the improvements may include without limitation construction or reconstruction, the cost of property, rights, easements and franchises; financing charges and interest payable, or discounts and the like provided in connection with financing the cost of the improvements; the cost of plans, specifications, surveys, title assurances and estimates of any kind; the cost of engineering, design, construction and acquisition of improvements; salaries, reasonable overhead, and administrative expenses of County staff and officials; expenses necessary or incident to determining the feasibility or practicability of the improvement; and such other expenses as may be necessary or incident to the planning, financing, or construction of improvements as herein authorized.

(c) Special assessments as authorized herein may be levied only on real property benefited thereby, and each such assessment shall not exceed the value of the benefit received by the specially assessed property. The special assessments made against each specially benefited property shall be based upon an apportionment among all such properties of the total cost of the improvement as identified by the Board, which apportionment shall be as deemed just and equitable by the Board in each case, and shall be reflected in the Special Assessment Roll.

(d) The Board may consider authorizing improvements and special assessments therefor as provided herein, either:

(1) upon its own, identifying the nature and extent of the improvements to be considered, or

(2) when a petition requesting the same and describing the nature and extent of the improvements to be considered, is presented by at least two-thirds of the owners of property to be specially benefited.

Section 3. Hearing on Proposed Improvements; Resolution Authorizing. If the Board desires to consider authorizing improvements hereunder, the Board shall publish at least once in a newspaper of general circulation in the County a certain day and hour, not earlier than ten (10) days from the first publication, the Board will hear objections of all interested persons to the improvements proposed, which notice shall state in general terms a description of the proposed improvements and the location thereof, and will also state that the Board intends to provide for payment of all or a part of the cost of such improvements by imposing special assessments upon the properties to be specially benefited.

At the time designated in the notice the Board shall receive any objection of interested persons, and may then or at a continuation of the public hearing reject the proposed improvement, or may by resolution authorize the improvements proposed. A copy of the resolution shall be recorded in the Public Records of Hernando County.

Section 4. Preliminary Assessment Roll; Notice ; Objections. Upon adoption of a resolution authorizing improvements, hereunder, such improvements shall be constructed or accomplished as directed by the Board. Upon completion of the improvements, or upon such earlier date as a reliable estimate of the cost of such improvements can be made, a special assessment of cost against each lot or parcel of land to be benefited by such improvements, shall be prepared. The Board shall then publish at least once in a newspaper of general circulation in the county a notice stating that the preliminary improvement assessment roll has been prepared, is on file in the office of the Clerk of the Board, and is open to public inspection, and that at a Public Hearing before the Board on a certain day and hour, not earlier than twenty (20) days from the date of publication, the Board will hear objections of all interested persons to the preliminary assessments. Such notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment of the Uniform Method of collections described in Section 197.3632, Florida Statutes, will be used; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice. In addition, the Board will cause notice of the public hearing to be mailed by first-class United States mail to be distributed as provided herein. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the local government will collect by the assessment; if the Uniform Method of collections described in Section 197.3632, Florida Statutes, will be used; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time and place of the hearing. At the Public Hearing or any continuation thereof, the Board shall receive the written objections and shall hear testimony for herein, the Board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the Board will provide or has provided to the property with the revenue generated by the assessment, approve or modify, in whole or in part, the preliminary special assessment roll according to the special benefits which the Board determines each lot or parcel of land will receive by virtue of the improvements. If the Board adopts the assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment. The assessments as approved or modified shall be final and conclusive except as the same may be modified in accordance with Section 10 hereof, and shall constitute the Special Assessment Roll.

Section 5. Special Improvement Assessment Liens; Payment of Assessments. Upon adoption of the Special Assessment Roll, the Board by resolution shall impose special assessment liens in favor of Hernando County and may authorize the issuance of the legal description of each lot or parcel of land subject to a special assessment lien, together with the amount of the lien according to the special assessment roll. An executed copy of the resolution shall be recorded promptly in the Public Records of Hernando County. The resolution shall indicate when and in what manner the assessments are to be paid and shall also state that such special assessment liens are subject to modification in accordance with the provisions of Section 10 hereof. All special assessment liens may be paid without interest if paid within thirty (30) days after the adoption of the resolution. Where the resolution authorizing the improvements has directed the

collection of special assessments in the manner provided for collection of ad valorem taxes, a certified copy of the resolution required under this section, along with the Special Assessment Roll, shall be delivered to the Hernando County Property Appraiser and shall include such details and instructions as may be necessary to facilitate the collection of the special assessments.

Otherwise, the special assessment lien shall bear interest from the date of adoption of the resolution, or as otherwise specified therein, at a rate not exceeding the maximum interest rate authorized by law and established in the resolution or, if bonds are issued pursuant to Section 8 hereof, at a rate of improvement bonds are sold, plus one percent per annum. The special assessment liens may, in accordance with the resolution the only for capital outlay projects, be made payable in annual installments over a specified period not to exceed twenty (20) years. If any payment is not made when due, there shall be paid, in addition to interest as provided herein a penalty at the rate of one percent (1%) per month.

Section 6. Contracts for Improvements; Disposition or Surplus Funds. No contract shall be entered into for any special improvements made under this article, nor shall the county undertake to commence such special improvements, until the date upon which the Board of County Commissioners adopts the resolution authorizing improvements and special assessments as required by Section 3 of Chapter 63-1582, Laws of Florida as amended.

Section 7. Assessments for any Special Improvements.

(a) All such assessments for any such special improvements made under the provisions of this act shall constitute liens upon the property especially improved and assessed from the date of filing in the public records of Hernando County of the assessment liens. Said liens shall be superior to any other liens or encumbrances, recorded or unrecorded, against the property taxes for the year in which said lien was imposed or any prior year. Collection of such special improvement assessment liens shall be made by foreclosure suit in a court of competent jurisdiction, and it shall be lawful to join in any such suit for foreclosure 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 act; provided that failure to pay any installment of principal or interest of any assessment lien when such installments shall become 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. In any suit for foreclosure, the plaintiff shall be entitled to suit costs and reasonable attorneys fees.

(b) In addition, where the Resolution authorizing the improvements has directed the collection of special assessments in the manner provided for collection of ad valorem taxes, any assessment(s) or installment(s) not paid when due may be collected in that manner as authorized by Chapter 197.3632, Florida Statutes, or as may be authorized under subsequent general or special laws. Any provisions regarding the use of ad valorem tax collection procedures with which the procedures hereof are or become in conflict, shall supersede the requirements of this ordinance, and the use of such provisions in conjunction with the authority and procedures hereby established is expressly authorized.

(c) Upon the subdividing or sale of less than an entire lot or parcel against which a special assessment lien has been established, all installments of principal remaining paid and interest due thereon shall be due and payable without notice or other proceedings, and the County may, at any time after such

sale or subdividing, institute foreclosure proceedings for the collection of all principal or interest on any or all portions of a lot or parcel against which the lien has been established.

Section 8. Financing of Special Improvements. For the purpose of financing any of the special improvements made or to be made under the provisions of this act, the county may:

(a) Sell any or all of the special assessments liens assessed against the property benefited. Said liens shall be evidenced by special improvement lien certificates signed by the chairman of the board and attested by its clerk or deputy clerk. Said liens, as evidenced by the special improvement lien certificates, may be sold either with or without recourse against the county in the event of failure of payment. Said liens may be enforced by the person, firm, or corporation to whom sold or anyone holding under them in the same manner as the county as provided by this act, and the holder of such special improvement lien certificates may sue in his own name to enforce such liens.

(b) Borrow money from any person, firm, or corporation in such amounts as are necessary to defray all or a portion of the cost of making the improvements authorized in this act, provided, however, the only security, of the special assessment liens, specifically including such liens for improvements which have heretofore been completed, as evidenced by special improvement lien certificates to be signed by the chairman of the board and attested by its clerk or deputy clerk. The rate of interest and terms for payment of any loan made pursuant to this paragraph shall be deemed appropriate by the Board.

(c) Issue bonds or other forms of indebtedness (herein referred to as "bonds") by resolution in such amounts as are necessary to defray all or a portion of the cost of improvements authorized or which may be authorized hereunder. The bonds shall be secured in whole or in part by the special assessment liens levied for the improvements. The bonds shall be payable from a special and separate fund or funds for each series of bonds and the fund or funds shall be used for the payment of the principal, interest and premium, if any, of the bonds, and for no other purpose. All the proceeds collected by the County from the principal of, and interest and penalties on, special assessment liens shall be deposited and held in the fund or funds. The bonds shall not be a charge on, or payable out of, the general revenues of the County, but shall be payable solely out of special assessments, installments, interest and penalties or such other legally available revenues as the County may by resolution designate. The bonds shall not constitute an indebtedness of the County within the meaning of any constitutional, statutory or charter provision or limitation, and the registered holder shall never have the right to require or compel the exercise of the ad valorem taxing power of the County for the payment of the principal of and interest on the bonds, or the making of any sinking fund, reserve or other payments which may be provided for by resolution of the County. Any surplus remaining after payment of all bonds and interest thereon shall revert to the County and may be used for any lawful public purpose.

The bonds shall bear interest at a rate per annum, which may be fixed or variable, in accordance with the provisions of Section 215.84, Florida Statutes, payable annually or semi-annually until maturity and both principal and interest shall be payable at such place or places as the County may determine. The form of such bonds shall be signed by or contain the facsimile signature of the Chairman or other authorized member of the Board and of the Clerk. The delivery of any bond so executed at any time thereafter shall be valid, even if before the date of delivery the person signing such bond shall cease to hold office. Such bonds may be sold in the manner provided by general law. Bonds issued hereunder shall have all the qualities of negotiable

paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders for value.

The County may further secure any bonds issued hereunder by pledging other legally available revenues or by incorporating in the manner provided by general law collection procedures used for the collection of ad valorem taxes.

Section 9. Services. The County may furnish the service, labor, materials, and equipment necessary for the special improvement to be made, or it may contract therefor with any private parties.

Section 10. Correction of Errors in Assessments; Presumption of Validity.

(a) In case the actual cost of an improvement is less than the estimate used in levying special assessment liens, in case of any omission, error or mistake in preparing or adopting the Special Assessment Roll, imposing special assessment liens, or in issuing special assessment lien certificates, the Board of County Commissioners may correct such omission, errors or mistakes, provided such correction does not impose a greater special assessment lien on any lot or parcel, and does not establish a lien on any lots or parcels not included in the Special Assessment Roll. Any such correction which increases the special assessment lien on any lot or parcel or which adds any additional lots or parcels, shall be made only after notice and hearing provided as for the adoption of the Special Assessment Roll, unless consent of the affected property owners is given in writing. Any corrections shall be made by resolution and the resolution shall be recorded in the public records of Hernando county, together with any written consent obtained from an affected property owner.

(b) Any informality or irregularity in the proceedings in connection with the establishment of any special assessment hereunder shall not affect the validity of the same where the Special Assessment Roll has been adopted by the Board, and the Special Assessment Roll as finally adopted shall be competent and sufficient evidence that the assessment was duly established, and all the other proceedings required in connection with the adoption of the Special Assessment Roll were duly accomplished, taken and performed as required; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

Section 11. Remedy. This Ordinance is declared to provide an additional and supplemental remedy in respect to the subject matter hereof, and shall not operate to repeal any existing law.

Section 12. Severability. It is declared to be the legislative intent that, if any section, sub-section, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 13. Effective Date. This Ordinance shall take effect as provided by law.

IN WITNESS WHEREOF, the Board of County Commissioners of Hernando County, Florida has duly enacted this ordinance this 16th day of January 1990.

HERNANDO COUNTY, FLORIDA

(SEAL)

Henry D. Libbey
Chairman, Board of County
Commissioners

Attested and countersigned

Karen Nicodemus
Clerk, Board of County
Commissioners