

AN ORDINANCE CREATING SAN CARLOS PARK SPECIAL IMPROVEMENT DISTRICT; RESCINDING THE BOARD OF COUNTY COMMISSIONERS' RESOLUTION OF JULY 24, 1974; DEFINING THE BOUNDARIES OF THE UNIT; PROVIDING FOR THE TYPES OF SERVICES TO BE RENDERED; PROVIDING FOR POWER TO LEVY SPECIAL ASSESSMENTS, SERVICE AND MAINTENANCE CHARGES AND AD VALOREM TAXES WITHIN THE UNIT; PROVIDING FOR A FUND; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE LEE COUNTY CODE AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

SECTION 1

CREATION OF THE UNIT

Pursuant to the powers granted to the Board by the Constitution of the State of Florida and the Florida Statutes, in particular, Section 125.01, Fla. Stat., the Board hereby creates a municipal service taxing or benefit unit to be known as the San Carlos Park Unit. With the exception of the Notice required by Section 125.66, Fla. Stat., and any other procedure required by state statute prior to the enactment of an ordinance, any and all procedures, administrative or otherwise, which were required to be followed prior to the enactment of ~~this Ordinance shall be considered directory in nature and~~ non-compliance with these procedures shall have no effect upon the validity of this Ordinance, constitutionally or otherwise.

## SECTION 2

### THE GOVERNING BODY

The Board of County Commissioners of Lee County, Florida shall be the governing body of the San Carlos Park Unit. The Board may appoint an advisory committee composed of five (5) persons who own property and/or reside within the Unit. The term of office and method of appointment of the advisory committee shall be established by the Board.

## SECTION 3

### PURPOSE OF THE UNIT

The purpose of the San Carlos Park Unit is to provide the following municipal services within the boundaries of the unit:

1. Streetlighting - To provide lights for guidance and security on the parkways and principal streets, at intersections and turns and at bridges and hazardous areas including parks and other public locations. Lights may be provided on residential streets on a second priority basis when it is justified by the traffic load and the density of improvements.
2. Maintenance of the "Constitutional" arches at the entrance to the subdivision, maintenance of all median strips within the subdivision including mowing, trimming, weeding, planting, fertilizing, watering, installation, maintenance and repair of sprinkler systems, wells, pumps, and lighting systems.
3. General horticultural maintenance of all public lands within the boundaries of the unit.

4. Law enforcement and security within the unit.

~~5. Other civic improvements, as required.~~

#### SECTION 4

##### GENERAL POWERS

The governing body shall have all the powers necessary or convenient to carry out the purpose of this Ordinance and such additional rights and powers as are provided by the Constitution of the State of Florida and the laws of the State of Florida as granted to counties. The governing body shall also have the powers not otherwise prohibited by law and these powers shall include but not be limited to the following:

1. Sue or be sued, complain or defend in the name of the County, or the municipal service taxing or benefit Unit in any and all courts or administrative agencies;
2. Acquire by grant, purchase, gift, devise, exchange or in any other lawful manner any property, real or person or any estate or interest therein upon such terms and conditions as the governing body may determine;
3. Enter into contracts with any public, quasi-public, private person or corporation for the furnishing of the improvements within the boundaries of the Unit;
4. Levy and collect taxes, special charges and/or special assessments within the Unit;
5. Borrow and expend money and issue bonds, revenue certificates, and such other obligations of

indebtedness in such manner and subject to such limitations as may be provided by law;

6. Receive grants from any state or Federal agency or public or quasi-public body;
7. Adopt rules and regulations governing the Unit.
8. Employ personnel, expend funds, and enter into contractual obligations.
9. Add other civic improvements.

#### SECTION 5

##### LEVYING SPECIAL ASSESSMENTS; LIENS; ENFORCEABILITY

(A) Any special assessment levied pursuant to this Ordinance shall be levied only after a Notice of Intent to Adopt a Proposed Resolution to Assess has been published in a newspaper of general circulation within Lee County at least fifteen (15) days prior to the public hearing on the proposed resolution. The method of apportioning the special assessment among the parcels of land within the unit shall be based upon a finding by the Board that the chosen method of apportionment is a fair and reasonable distribution of the cost of the municipal service improvement in proportion to the special benefit which each parcel of land will receive. The assessment roll may be amended at the public hearing.

~~(B) The special assessment shall be due and payable and interest and penalties for late payment shall accrue thereon from such date as the Board shall provide.~~

(C) An assessment roll shall be prepared and shall be attached to the proposed resolution. This assessment roll shall consist of all record legal titleholders of parcels of land within the boundaries of the unit and shall state the apportioned assessment for that parcel of land.

(D) The assessment made by the Board as provided for herein shall constitute a lien against all parcels of land so assessed. Upon failure of any property owner to pay any apportioned assessment when due and payable, the Board shall cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred including reasonable attorney's fees, to be assessed as part of the cost. In the event of a default on payment of any assessment when due and payable or any accrued interest on the assessment, the entire assessment with interest and penalties shall immediately become due and payable and subject to foreclosure. The foreclosure proceedings may be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law and suit to foreclose mortgages; or, in the alternative, said proceedings may be instituted and prosecuted by any other lawful process or procedure then available for the enforcement of the lien pursuant to any general law of the State relative to the enforcement of the municipal lien. Enforcement of this lien through foreclosure proceedings or otherwise shall not be

construed as the Board's exclusive remedy. The Board may prosecute any claim, legal or equitable, which it may have against the owner of the specially assessed parcel of land who has defaulted on his payment of the assessment.

(E) The property owner, whose property has been assessed, shall have the right to petition the Board for correction of any inaccuracy in the assessment or its apportionment within ten (10) days of the adoption of the Resolution to Assess. After the lapse of ten (10) days from the date of the adoption of the Resolution to Assess, including amendments thereto, all assessments made shall be deemed conclusive unless the property owner has filed the petition for administrative review. Failure to exercise this right for an administrative remedy within the time permitted shall be deemed a waiver of the property owner's right to object to the assessment or its apportionment.

## SECTION 6

### AD VALOREM TAXES AUTHORIZED

Ad valorem taxes levied pursuant to this Ordinance shall be levied and a budget prepared and adopted by the governing body after public hearing in the same manner as the Board of County Commissioners prepares and adopts its annual county budget and levies taxes as provided by law.

SECTION 7

BOUNDARIES

The boundaries of the unit shall be as follows:

See Schedule "A" attached  
and made a part of this Ordinance.

SECTION 8

SAN CARLOS PARK UNIT FUND

There is hereby created a fund to be known as the San Carlos Park Unit Fund, from which the cost of any municipal service may be paid, either in whole or in part. This fund shall contain all special charges, special assessments, taxes, interest, and other monies collected or otherwise obtained pursuant to this Ordinance or any subsequent Resolution thereto.

SECTION 9

RESCISSION

Board Resolution dated July 24, 1974 is hereby rescinded in full, is declared null and void and no longer has any force or effect.

SECTION 10

INCLUSION IN CODE

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code; and that sections of this

Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, Sections of this Ordinance may be renumbered or relettered, and typographical errors which do not affect the intent, may be authorized by the County Administrator, or his designee, without need of a Public Hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

SECTION 11

SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION 12

EFFECTIVE DATE

This Ordinance shall become effective immediately upon receipt by the Clerk's Office that acknowledgment of filing has been received from the Secretary of State as provided by Law.



THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_  
Manning \_\_\_\_\_, who moved its adoption. The motion  
was seconded by Commissioner Slisher  
and, being put to a vote, the vote was as follows:

CHARLES BIGELOW	<u>aye</u>
JOHN E. MANNING	<u>aye</u>
RAY JUDAH	<u>aye</u>
BILL FUSSELL	<u>absent</u>
DONALD SLISHER	<u>aye</u>

DULY PASSED AND ADOPTED this 15th day of July,  
1989.

ATTEST: 72  
CHARLIE GREEN, CLERK  
By: Shirley E. Rost  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA  
By: Bob Green  
Chairman

Approved as to Legal Form:

James P. Adam  
Assistant County Attorney

(28341)

SCHEDULE "A"

DESCRIPTION

PROPOSED SAN CARLOS SPECIAL IMPROVEMENT DISTRICT  
SECTIONS 8, 9, 15, 16, 17, 20 & 22, T. 46 S., R. 25 E.  
LEE COUNTY, FLORIDA

Tracts or parcels of land for a proposed San Carlos Special Improvement District described as follows:

The south half (S-1/2) of Section 8, all of Section 9, the west half (W-1/2) of Section 15, all of Section 16, all of Section 17 lying northeasterly of U.S. 41 (State Road No. 45), all of the north half (N-1/2) of Section 20 lying northeasterly of U.S. 41 (State Road No. 45) and the northwest quarter (NW-1/4) of Section 22, all in Township 46 South, Range 25 East, Lee County, Florida.