



COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, *County Attorney*

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

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Orlando, FL 32802-1393
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BCC Mtg. Date: Aug. 16, 2016

MEMORANDUM

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Lila McHenry

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~~William Turner~~
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Legal Administrative Supervisor
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Senior Paralegal
Kimberly Cundiff

Paralegals
Melessia Lofgren
Maria Vargas, ACP

TO: Mayor Teresa Jacobs
and
Board of County Commissioners

FROM: Jeffrey J. Newton, County Attorney
Lila McHenry, Senior Assistant County Attorney
Contact: (407) 836-7320

DATE: August 1, 2016

SUBJECT: **Consent Agenda Item for the Board Meeting on August 16, 2016**
Proposed New Administrative Regulation, titled "Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Taxing Units (MSTUs)"

Attached for your review is a proposed new Administrative Regulation.

I. EXPLANATION & SUMMARY OF PROPOSED REGULATION:

The attached MSTU regulation was reviewed in depth to ensure that the regulation is consistent with OMB practices and procedures. Under certain circumstances, a millage based MSTU for lake maintenance will be more appropriate than a special assessment based MSBU and the attached regulation sets forth the process for those MSTUs.

It is our intent to place the proposal on the August 16, 2016, Consent Agenda for approval by the Board of County Commissioners. Please advise of any questions, comments, or modifications you may wish to make prior to that meeting.

II. ACTION REQUESTED:

Approval of proposed new Administrative Regulation, titled

"Creation, Administration, and Abolishment of Lake Maintenance Municipal Service Taxing Unit (MSTUs)"

AMC
Attachments

c: Ajit Lalchandani, County Administrator
Eric Gassman, Chief Accountability Officer

County. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. The requesting property owner(s) may opt to provide postage on the return envelopes at their own expense.

d. Finance will tabulate the results of the balloting. Each platted lot/parcel subject to assessment will be entitled to one vote, which may be cast by any one joint owner or collectively by all owners of the lot/parcel. If, within 30 days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (50% plus one) of the total number of platted lots/parcels subject to assessment, then majority interest in the abolishment of the lake maintenance MSBU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSBU is present, Finance will, in conjunction with the County Attorney's Office, prepare a resolution for MSBU abolishment for consideration by the BCC. Finance will, in the customary manner prescribed for all MSBUs, schedule a public hearing on the resolution with the BCC and will notify all affected property owners of the public hearing date by mail at County expense. Subject to the public hearing, the BCC will determine at its discretion whether or not to abolish the MSBU.

4. If a majority interest in the abolishment of the MSBU is not demonstrated within the specified time frame, all property owners in the MSBU will be precluded from initiating another MSBU abolishment process for one year from the ballot closing date.

5. The County may abolish of an MSBU in the absence of a petition for a variety reasons, including but not limited to: annexation by a municipality, burdensome administrative duties associated with the MSBU, frequent property owner disputes, or other considerations making an MSBU unnecessary, inappropriate, unsuitable or otherwise not in the best interests of the public.

6. Uncommitted funds on hand as of the abolishment date of a MSBU shall be refunded to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be declared de minimis and disposed of in accordance with Administrative Regulation 6.05 Disposition of Small Credit Balance Amounts and Unclaimed Checks.

I. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of service providers, or any other relevant objection shall be submitted in writing to Finance by a property owner within the subject MSBU.

2. All written complaints will be reviewed by Finance with assistance from BCC staff as appropriate.

3. Finance will respond in writing, noting corrective action taken, if any.

4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSBU funds in the registry of the court in cases where significant unresolved disputes have placed an undue burden on staff resources.

FOR MORE INFORMATION CONTACT:
Comptroller's/Finance and Accounting Department, County Attorney's Office

REFERENCES: Florida Statutes, Section 125.01 and Sections 197.3632(4)(A); Administrative Regulation 6.05

APPROVED: 08/16/16

6.13.05 CREATION, ADMINISTRATION, AND ABOLISHMENT OF LAKE MAINTENANCE MUNICIPAL SERVICE TAXING UNITS (MSTUs)

I. POLICY

Orange County is authorized to establish Municipal Service Taxing Unit (MSTU) under Section 125.01(1)(q) and (r), Florida Statutes. The Board of County Commissioners (BCC) find that it is appropriate to consider creation, amendment, or abolishment of MSTU for certain unincorporated areas of Orange County for operation, maintenance and administration of lake maintenance. The County's Environmental Protection Division (EPD) administers lake maintenance MSTU and coordinates with the Finance and Accounting Department of the Orange County Comptroller's Office (Finance) and other County Divisions as needed. The Orange County Environmental Protection Division shall perform or cause to be performed minimum maintenance services in the lake areas.

II. PROCEDURES

A. MSTU established pursuant to Section 125.01, Florida Statutes, for lake maintenance and administration will be considered only for property specially benefitted by such lake maintenance.

B. Allowable costs in a lake maintenance MSTU may include labor, maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees.

C. The County may require creation of MSTU for lake maintenance from a developer of a new subdivision adjacent to a lake within unincorporated Orange County. Alternatively, a minimum of 15% of unincorporated Orange County property owners of the parcels abutting or deeded access to a lake area may request creation of a MSTU for lake maintenance.

D. The ad valorem method, Sections 200.066 and 200.071, Florida Statutes, shall be used. This ad valorem tax millage rate may be adjusted and will be levied each and every year thereafter and this ad valorem tax millage rate will continue to be adjusted to collect the revenue needed to cover the expenditures of the MSTU and will continue to be levied until discontinued by the Board. The ad valorem tax millage shall not exceed and ad valorem tax millage rate of three (3) mills or \$3.00 per every one thousand dollars of all taxable assessed real property located within the said MSTU. The ad valorem millage rate will also provide for reimbursement of necessary inspections and staff support expenses by the County and administrative costs incurred by the Orange County Property Appraiser and the Orange County Tax Collector for the collection of ad valorem taxes. Proceeds of collection of such taxes-as provided hereinafter are to be put into a special account by the County to the credit of the MSTU, and are to be used only by the MSTU as provided herein.

E. New Subdivision – Creation By Development Review Committee shall take place as follows:

1. The County Development Review Committee (DRC) requires the developer to submit a written request for the establishment and/or amendment of an MSTU for lake maintenance to the Plan Review Section of the Planning Division. Such request shall include the proposed preliminary plat book pages for new subdivisions.

2. Plan Review forwards the written request and the proposed plat to Finance. This information must be received in Finance and the plat must be recorded by December 31 of the year preceding the year in which the ad valorem tax assessment is to be placed on the following November 1 real estate tax bill.

3. Finance requests a cost estimate, a map, and a list of parcels from EPD. EPD submits the cost estimate to Finance for labor, maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees. Finance estimates the initial annual cost per lot/parcel and submits the estimated ad valorem tax assessment for review to EPD and the Office of Management and Budget. The Office of Management and Budget will evaluate the proposed millage to determine compliance with maximum millage limitations and will verify with the Orange County Property Appraiser that the proposed millage is in compliance with the millage limitation for municipal purposes.

4. Finance prepares an MSTU Resolution for maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date. A public hearing notice is mailed to the developer and any other property owners of record within the proposed boundaries of the MSTU. The BCC, subject to the public hearing, adopts at its discretion the Resolution for the establishment and/or amendment of the MSTU for lake maintenance.

5. The Resolution creating such MSTU shall include brief descriptions of the proposed allowable costs, a description of the properties to be included in the MSTU and specific legislative findings that recognize the services to be provided by such lake maintenance to properties encompassed within the MSTU.

6. For all newly approved or amended lake maintenance MSTUs (given compliance with the time deadline stated in Step 2 above), Finance will arrange for the annual ad valorem tax assessment to be placed on the upcoming November 1 real estate tax bill.

7. All approved MSTUs are effective as of the initial November 1 real estate tax billing. This ensures that Finance will have received funds from the Orange County Tax Collector to pay for labor, maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees provided for in the MSTU Resolution.

F. Creation by Property Owner Request

1. A written petition to establish and/or amend an MSTU for lake maintenance is required from property owners representing a minimum of 15% of the affected lots/parcels. The petition should reference the property owners' names, addresses, parcel ID numbers (if available), and telephone numbers. Renters and/or boarders signatures on a property owner petition are not eligible to be counted in the results. This petition must be received in Finance by June 1 of the year preceding the year in which the ad valorem assessment is to be placed on the following November 1 real estate tax bill. The completed petition is delivered to:

Orange County Comptroller, Special Assessments
201 South Rosalind Avenue, 4th Floor
Orlando Florida 32801

2. Using tax maps, EPD determines the boundaries of the proposed MSTU and prepares a cost estimate.

3. Finance estimates the initial annual cost per lot/parcel and submits the estimated ad valorem tax for review to EPD and the Office of Management and Budget. The Office of Management and Budget will evaluate the proposed millage to determine compliance with maximum millage limitations and will verify with the Orange County Property Appraiser that the proposed millage is in compliance with the millage limitation for municipal purposes. Finance prepares an explanation letter and a ballot. EPD reviews and approves the estimated initial annual cost/ad valorem tax and the explanation letter and the ballot.

4. Finance mails a letter of explanation, a ballot and a return envelope to all of the affected property owners and a minimum of 66 2/3% of the returned ballots must respond in favor of establishing/amending the MSTU to continue the creation process. Renter's and/or boarder's signatures on a property owner ballot are not eligible to be counted in the results. The minimum balloting period shall be 14 calendar days.

5. Should the ballot be unsuccessful, the property owners' may at their discretion initiate a follow up petition process. Finance provides a list of all of the affected property owners (renters and/or boarders are not eligible) and an explanation for the petition. The property owners' must obtain signatures from 66 2/3% of the affected property owners on the petition to continue the creation process.

6. Finance prepares an MSTU resolution for lake maintenance and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public hearing date and a public hearing notice is mailed to all affected property owners. The BCC, subject to the public hearing, adopts at its discretion the resolution for the establishment and/or amendment of the MSTU for lake maintenance.

7. The resolution creating such MSTU shall include brief descriptions of the proposed allowable costs, a description of the property to be included in the MSTU and specific legislative findings that recognize the special benefit to be provided by such lake maintenance to property encompassed within the MSTU.

8. All MSTUs are effective as of the initial November 1 real estate tax billing. This ensures that EPD will receive funding from the collection of the annual ad valorem taxes to pay for the lake maintenance.

G. Administration of Lake Maintenance MSTU

1. EPD will disburse MSTU funds directly to the service providers. Service providers can include outside vendors and Orange County staff. The normal standards for documentation and verification of County accounts payable shall be applicable to MSTU payments.

2. Revenues and expenditures for each lake maintenance MSTU will be accounted for separately in Finance, and fiscal year ending balances will remain with each respective MSTU. The millage rate may be adjusted annually as part of the County budget process. It is recognized that each MSTU must carry at a minimum an adequate contingency reserve to cover eligible expenditures from the beginning of the fiscal year to the time that annual tax revenues are received.

H. Abolishment of Lake Maintenance MSTU

1. An existing MSTU will be considered for abolishment upon the demonstration of majority interest on the part of the property owners in the MSTU.

2. Majority interest in the abolishment of a MSTU shall be determined as follows:

a. Any property owner(s) shall submit a request in writing to EPD for a preliminary petition on which to demonstrate an expression of interest in the abolishment of a MSTU. The preliminary petition shall be in a format approved by Finance.

b. The property owner(s) requesting the preliminary petition must obtain signatures of property owners (renters and/or boarders are not eligible) representing at least 15% of the platted lots/parcels subject to assessment and return the preliminary petition to Finance within 90 days of receipt of the preliminary petition to continue the abolishment process.

c. Finance will review the preliminary petition and, if it meets the requirements stated above, will prepare ballots with return envelopes to be mailed to the property owner(s) of each platted lot/parcel as shown on the current tax roll of the County. The cost of material and postage for mailing the ballots will be borne by the property owner(s) requesting the preliminary petition. The requesting property owner(s) may opt to provide postage on the return envelopes at their own expense.

d. Finance will tabulate the results of the balloting. Each platted lot/parcel subject to ad valorem tax assessment will be entitled to one vote, which may be cast by any one joint owner or collectively by all owners of the lot/parcel. If, within 30 days from the mailing of the ballots, responses in favor of abolishment have been received from property owners representing at least a simple majority (50% plus one) of the total number of platted lots/parcels subject to assessment, then majority interest in the abolishment of the lake maintenance MSTU will be deemed to be present.

3. Upon determination that a majority interest for abolishment of the MSTU is present, Finance will, in conjunction with the County Attorney's Office, prepare a resolution for MSTU abolishment for consideration by the BCC. Finance will, in the customary manner prescribed for all MSTUs, schedule a public hearing on the resolution with the BCC and will notify all affected property owners of the public hearing date by mail at County expense. Subject to the public hearing, the BCC will determine at its discretion whether or not to abolish the MSTU.

4. If a majority interest in the abolishment of the MSTU is not demonstrated within the specified time frame, all property owners in the MSTU will be precluded from initiating another MSTU abolishment process for one year from the ballot closing date.

5. The County may abolish an MSTU in the absence of a petition for a variety of reasons, including but not limited to: annexation by a municipality, burdensome administrative duties associated with the MSTU, frequent property owner disputes, or other considerations making an MSTU unnecessary, inappropriate, unsuitable or otherwise not in the best interests of the public.

6. Uncommitted funds on hand as of the abolishment date of a MSTU shall be refunded to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be declared de minimis and disposed of in accordance with Administrative Regulation 6.05 Disposition of Small Credit Balance Amounts and Unclaimed Checks.

I. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of service providers, or any other relevant objection shall be submitted in writing to Finance by a property owner within the subject MSTU.

2. All written complaints will be reviewed by Finance with assistance from BCC staff as appropriate.

3. Finance will respond in writing, noting correction action taken, if any.


4. Public records may be reviewed by any party in accordance with public records laws and any copies requested shall be specifically identified and paid for prior to delivery.

5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSTU funds in the registry of the court in cases where significant unresolved disputes have placed an undue burden on staff resources.

FOR MORE INFORMATION CONTACT: County's Environmental Protection Division, Office of Management and

PROPOSED NEW ADMIN REG

07/28/16

 ORANGE COUNTY ADMINISTRATIVE REGULATIONS	No.: New
	Date:
	Approved By:
Title: CREATION, ADMINISTRATION, AND ABOLISHMENT OF LAKE MAINTENANCE MUNICIPAL SERVICE TAXING UNITS (MSTUs)	Page 1 of 7

I. POLICY

Orange County is authorized to establish Municipal Service Taxing Unit (MSTU) under Section 125.01(1)(q) and (r), Florida Statutes. The Board of County Commissioners (BCC) find that it is appropriate to consider creation, amendment, or abolishment of MSTU for certain unincorporated areas of Orange County for operation, maintenance and administration of lake maintenance. The County's Environmental Protection Division (EPD) administers lake maintenance MSTU and coordinates with the Finance and Accounting Department of the Orange County Comptroller's Office (Finance) and other County Divisions as needed. The Orange County Environmental Protection Division shall perform or cause to be performed minimum maintenance services in the lake areas.

II. PROCEDURES

- A. MSTU established pursuant to Section 125.01, Florida Statutes, for lake maintenance and administration will be considered only for property specially benefitted by such lake maintenance.
- B. Allowable costs in a lake maintenance MSTU may include labor, maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees.
- C. The County may require creation of MSTU for lake maintenance from a developer of a new subdivision adjacent to a lake within unincorporated Orange County. Alternatively, a minimum of 15% of unincorporated Orange County property owners of the parcels abutting or deeded access to a lake area may request creation of a MSTU for lake maintenance.
- D. The ad valorem method, Sections 200.066 and 200.071, Florida Statutes, shall be used. This ad valorem tax millage rate may be adjusted and will be levied each and every year thereafter and this ad valorem tax millage rate will continue to be adjusted to collect the revenue needed to cover the expenditures of the MSTU and will continue to be levied until discontinued by the Board. The ad valorem tax



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millage shall not exceed an ad valorem tax millage rate of three (3) mills or \$3.00 per every one thousand dollars of all taxable assessed real property located within the said MSTU. The ad valorem millage rate will also provide for reimbursement of necessary inspections and staff support expenses by the County and administrative costs incurred by the Orange County Property Appraiser and the Orange County Tax Collector for the collection of ad valorem taxes. Proceeds of collection of such taxes-as provided hereinafter are to be put into a special account by the County to the credit of the MSTU, and are to be used only by the MSTU as provided herein.

- E. New Subdivision – Creation By Development Review Committee shall take place as follows:
1. The County Development Review Committee (DRC) requires the developer to submit a written request for the establishment and/or amendment of an MSTU for lake maintenance to the Plan Review Section of the Planning Division. Such request shall include the proposed preliminary plat book pages for new subdivisions.
 2. Plan Review forwards the written request and the proposed plat to Finance. This information must be received in Finance and the plat must be recorded by December 31 of the year preceding the year in which the ad valorem tax assessment is to be placed on the following November 1 real estate tax bill.
 3. Finance requests a cost estimate, a map, and a list of parcels from EPD. EPD submits the cost estimate to Finance for labor, maintenance charges, equipment charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees. Finance estimates the initial annual cost per lot/parcel and submits the estimated ad valorem tax assessment for review to EPD and the Office of Management and Budget. The Office of Management and Budget will evaluate the proposed millage to determine compliance with maximum millage limitations and will verify with the Orange County Property Appraiser that the proposed millage is in compliance with the millage limitation for municipal purposes.
 4. Finance prepares an MSTU Resolution for maintenance charges, chemicals and pesticide charges, and energy charges intended to provide general lake cleaning, water quality improvement, maintenance, aquatic plant control services, and related administrative costs for governmental collection, administrative and inspection fees and requests a public hearing before the BCC. The Clerk to the BCC provides Finance with a public



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hearing date. A public hearing notice is mailed to the developer and any other property owners of record within the proposed boundaries of the MSTU. The BCC, subject to the public hearing, adopts at its discretion the Resolution for the establishment and/or amendment of the MSTU for lake maintenance.

5. The Resolution creating such MSTU shall include brief descriptions of the proposed allowable costs, a description of the properties to be included in the MSTU and specific legislative findings that recognize the services to be provided by such lake maintenance to properties encompassed within the MSTU.
6. For all newly approved or amended lake maintenance MSTUs (given compliance with the time deadline stated in Step 2 above), Finance will arrange for the annual ad valorem tax assessment to be placed on the upcoming November 1 real estate tax bill.
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2. Using tax maps, EPD determines the boundaries of the proposed MSTU and prepares a cost estimate.



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G. Administration of Lake Maintenance MSTU

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6. Uncommitted funds on hand as of the abolishment date of a MSTU shall be refunded to the platted property owners of record at the date of abolishment on a pro-rata basis commensurate with the method of levy provided such pro-rata refunds are equal to or greater than \$10.00 each. In those situations where the refund amounts are less than \$10.00 per platted property owner, such amounts shall be declared de minimis and disposed of in accordance with Administrative Regulation 6.05 Disposition of Small Credit Balance Amounts and Unclaimed Checks.



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I. Dispute Resolution

1. Any complaint or dispute concerning disbursement of funds, conduct of service providers, or any other relevant objection shall be submitted in writing to Finance by a property owner within the subject MSTU.
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5. Finance, with concurrence from the County Attorney's Office, reserves the right to place MSTU funds in the registry of the court in cases where significant unresolved disputes have placed an undue burden on staff resources.

FOR MORE INFORMATION CONTACT:

County's Environmental Protection Division, Office of Management and Budget; County's Attorney's Office; Comptroller's/Finance and Accounting Department

REFERENCE:

Florida Statutes, Section 125.01 and Sections 200.066 and 200.0715; Administrative Regulation 6.05