

# TURNBULL CREEK COMMUNITY DEVELOPMENT DISTRICT

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## COMMUNITY DEVELOPMENT DISTRICTS

**Q: What is a community development district?**

**A:** A community development district (CDD) is an independent special-purpose unit of local government created pursuant to and governed by Chapter 190, Florida Statutes. CDDs offer a cost-effective means of financing and management of major infrastructure systems and services to support the development of new communities throughout the State. CDDs can help to spread out development costs, meet the concerns of permitting agencies with respect to long-term maintenance of infrastructure, provide access to sources of increasingly scarce capital, and work cooperatively with other local governments struggling to avoid politically unpopular tax increases.

**Q: What powers are CDDs permitted to exercise?**

**A.** As special-purpose local governments, CDDs possess certain legal powers similar to cities and counties, such as the right to enter into contracts, to acquire and dispose of real and personal property, to adopt rules and regulations, and to obtain funds either by borrowing, issuing bonds, or levying non-ad valorem assessments and taxes and to issue tax-exempt (30 year) bonds. CDDs also have certain special powers relating to public improvements and community facilities.

All of these special powers, however, are authorized subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included within the district's external boundaries. CDDs do not have zoning, permitting, or comprehensive planning powers. The creation of a CDD does not change any requirements for governmental approvals of any activities or construction within the district. Planning, environmental and land development regulations apply to all development and construction within the CDD regardless of who undertakes the activity.

**Q: How are CDDs governed?**

**A:** CDDs are governed by a five-member board of supervisors elected initially by district landowners on a one-acre/one-vote basis. Commencing at least six years following creation of the district, and only after there are at least 250 qualified electors, supervisors whose terms are expiring will begin to be elected by qualified electors of the district. A "qualified elector" is any person at least 18 years of age who is a United States citizen, a legal resident of Florida and of the district, and who is registered to vote with the supervisor of elections in the county in which the district land is located. Elections are held every two years on the first Tuesday in November. Your CDD is governed by "qualified electors".

Board meetings must be publicly noticed and are always conducted in a public forum. CDDs are subject to the public records law. The supervisors, themselves, are subject to the same financial disclosure requirements as are other local elected officials. These and other requirements related to public oversight

of district activities make CDDs particularly visible in the relation to other entities exercising responsibility for the development of community infrastructure and services. Further, supervisors are subject to Chapter 112, the Florida Code of Ethics, and the Government in the Sunshine Law, which prohibits elected official from discussing matters pending, or that may come, before the District Board. This makes discussions and decisions between Board members challenging in that the Board can only make decisions at publicly noticed Board meeting.

District supervisors are statutorily entitled to receive an amount not to exceed \$200 per meeting for their services. Each supervisor's maximum annual compensation is \$4,800. A district manager, who is appointed by the board of supervisors, oversees the day-to-day operation of the district and is required under Chapter 190, Florida Statutes.

**Q: How is a CDD different than other kinds of special districts and homeowners' associations?**

**A:** While other kinds of special districts and homeowners' associations may address certain issues, none of them have the range of powers and options accorded CDDs. In addition to their inability to effectively finance major capital improvements, homeowners' associations generally do not meet regulatory agency requirements for stable, perpetual entities for long-term maintenance of permitted infrastructure. Other kinds of districts have only a limited range of available powers. CDDs, on the other hand, are perpetual entities with extensive financing capabilities, and, as noted previously, are statutorily permitted to exercise a list of general and special powers. Another distinction between homeowners' associations and CDDs is that homeowners' associations have control over deed restrictions on private lots and are required to hold homeowner votes for certain decisions. However, CDD's have an easier time collecting assessments securing bonds because such assessments are collected on the tax-roll while homeowners' associations directly collect assessments which results in a much lower collection rate.

**Q: How are district non-ad valorem special assessments determined?**

**A:** Each property owner will pay an annual assessment to the district based on two component costs. One is the fixed amount required to amortize the debt assessed against each lot, parcel or acre for the facilities acquired or constructed by the district. The other is an annual assessment for district operations and maintenance of district facilities. The annual installment amount may vary in relation to the size and location of the property, and to the infrastructure benefit allocated to the property assessed. Each year, the district board of supervisors holds a public hearing to set its budget and the level of assessments. Consequently, district residents will know each year's assessment in advance. The notice that goes with this explanation is a notice regarding the yearly operation and maintenance assessment increase.

**Q: How are defaults on CDD assessments handled?**

**A:** The law governing CDDs permits districts to utilize special assessments in which the debt obligation is assigned to each lot, tract or parcel on a pro rata basis according to the benefit received from the facilities which are provided by the district. CDDs may use the procedure for levying and collecting assessments provided in either Chapter 170 or Chapter 197, Florida Statutes. The remedies available to the District under each method are slightly different. However, in either case, if there is a default by an owner of property within a CDD, the bondholders are permitted to look only to the defaulting property for recovery of the delinquent assessment. Chapter 190 specifically provides that the local general-purpose government is not responsible for debt issued by a CDD. See ss. 190.002(3) and 190.016(15), Florida Statutes.