

ORDINANCE NO.: 2000-14

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, ESTABLISHING THE KILLARNEY COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; SPECIFYING GENERAL AND SPECIAL POWERS OF THE DISTRICT; DESCRIBING THE BOUNDARIES OF THE DISTRICT; NAMING THE MEMBERS OF THE BOARD OF SUPERVISORS; PROVIDING FOR ADMINISTRATION, OPERATION AND FINANCING OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, KILLARNEY, LLC., a Florida limited liability company, has petitioned the HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS, (hereinafter "COUNTY") to adopt an ordinance establishing the KILLARNEY COMMUNITY DEVELOPMENT DISTRICT, (hereinafter "KILLARNEY") pursuant to Chapter 190, Florida Statutes; and

WHEREAS, the COUNTY finds that all statements contained in the Petition to establish the KILLARNEY, are true and correct; and

WHEREAS, the COUNTY finds that the creation of KILLARNEY is not inconsistent with any applicable element or portion of the State of Florida Comprehensive Plan or the Hernando County Comprehensive Plan; and

WHEREAS, the Hernando County Board of County Commissioners finds that the area of land within KILLARNEY is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community; and

WHEREAS, the COUNTY finds that KILLARNEY is the best alternative available for delivering the community development services and facilities to the area that will be served by KILLARNEY; and

WHEREAS, the COUNTY finds that the community development services and facilities of KILLARNEY will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

WHEREAS, the COUNTY finds that the area that will be served by KILLARNEY is

2000 NOV - PH 3:30
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
FILED

amenable to separate special district government; and

WHEREAS, the **COUNTY** finds that **KILLARNEY** will constitute a timely, efficient, effective, responsive, and economic way to deliver community development services in the area thereby providing a solution to the Hernando County's planning, management and financing needs for delivery of capital infrastructure therein without overburdening Hernando County and its taxpayers;

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

SECTION 1. COMMUNITY DEVELOPMENT KILLARNEY ESTABLISHED

Pursuant to Chapter 190, Florida Statutes, the Killarney Community Development District, henceforth to be known as **KILLARNEY**, is created.

SECTION 2. GENERAL SPECIAL POWERS

KILLARNEY shall have all general special powers as set forth in Chapter 190, Florida Statutes, and as provided in this ordinance.

A. General Powers

KILLARNEY shall have and **KILLARNEY'S BOARD OF SUPERVISORS**, (hereinafter "**BOARD**") may exercise all powers which can be granted to a Community Development District, pursuant to Chapter 190, Florida Statutes, or any other applicable law, except as may be limited herein. Such power shall include, but shall not be limited to, the following powers:

1. To sue and be sued in the name of **KILLARNEY**; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire by purchase, gift, devise, or otherwise, and to dispose of real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

2. To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by

KILLARNEY to pay employer contributions into the state retirement fund.

3. To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contract shall be subject to public bidding, competitive negotiation requirements as set forth in Section 190.033, Florida Statutes, as it may be amended from time to time.

4. To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the State, a unit of local government, or any person for any **KILLARNEY** purposes allowed by law, and enter into arrangements required in connection therewith; and to hold, use, and dispose of such monies or property for any **KILLARNEY** purpose allowed by law in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

5. To adopt rules and orders including bylaws and resolutions pursuant to the provisions of Chapter 120, Florida Statutes, prescribing the powers, duties, and functions of **KILLARNEY**; the conduct of the business of **KILLARNEY**; the maintenance of records; and the form of certificate evidencing tax liens and all other documents and records of **KILLARNEY**. **KILLARNEY** may also adopt administrative rules with respect to any of the projects of **KILLARNEY** and define the area to be included therein.

6. To maintain an office at such place or places as it may designate within Hernando County which office must be reasonably accessible to the landowners.

7. To hold, control, and acquire by donation, purchase, or condemnation any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this ordinance or applicable law and to make use of such easements, dedications, or reservations for any of the purposes authorized by this ordinance.

8. To lease as lessor or lessee to or from any person, firm, corporation,

association, or body, public or private, any projects of the type that **KILLARNEY** is authorized to undertake and facilities or property of any nature for the use of **KILLARNEY** to carry out any of the purposes authorized by this ordinance.

9. To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as is hereinafter provided; to levy such taxes and special assessments as may be authorized; to charge, collect, and enforce fees and other user charges.

10. To raise, by user charges or fees authorized by resolution of the **BOARD**, amounts of money which are necessary for the conduct of **KILLARNEY'S** activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

11. To exercise within **KILLARNEY**, or beyond **KILLARNEY** boundaries with prior approval by resolution of the **COUNTY** if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of Chapters 73 and 74, Florida Statutes, over any property within the state, except municipal county, state, and federal property, for the uses and purpose permitted by law **KILLARNEY** relating solely to water, sewer, roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

12. To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

13. To assess and impose upon lands in **KILLARNEY** ad valorem taxes as provided by this act.

14. To determine, order, levy, impose, collect, and enforce special

assessments pursuant to this act and Chapter 170, Florida Statutes. Such special assessments may, in the discretion of **KILLARNEY**, be collected and enforced pursuant to the provisions of §197.3631, §197.3632, and §197.3635, or Chapter 170, Florida Statutes.

15. To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this ordinance.

16. To exercise all special powers as may be authorized by this ordinance.

B. Special Powers

KILLARNEY shall have, and the **BOARD** may exercise, 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 therein, any or all of the following special powers relating to public improvements and community facilities authorized by this ordinance.

1. To finance, plan, fund, establish, acquire construct or reconstruct, enlarge, or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

- a) Water management and control for the lands within **KILLARNEY** and to connect some or any of such facilities with roads and bridges.
- b) Water supply, sewer, and wastewater management, or any combination thereof, and to construct and operate connecting, intercepting, or outlet sewers and sewer mains, pipes and water mains, conduits, or pipelines, in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

- c) Notwithstanding anything to the contrary herein, **KILLARNEY** shall have no authority to operate any water supply sewer or wastewater system. **KILLARNEY** will be required to connect and pay the appropriate fees and costs thereof to the Hernando County Utilities System for potable water and wastewater services. In the event that Hernando County is unable or unwilling to supply **KILLARNEY** with potable water and wastewater services, if available, then **KILLARNEY** may exercise the powers specified in paragraph (b) above.
- d) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut in roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.
- e) All roads, streets, or street lights in **KILLARNEY** shall meet or exceed the specifications of Hernando County.
- f) Notwithstanding anything to the contrary above, **KILLARNEY** shall be required to construct roadways in **KILLARNEY** and install street lights that meet or exceed the specifications of Hernando County. Such construction shall be at the sole cost of **KILLARNEY**. Further, after construction **KILLARNEY** shall be responsible for maintaining said roads solely at its own cost and expense, unless Hernando County agrees to maintain the roadways within **KILLARNEY**.

2. Buses, trolleys, transit shelters, ridesharing facilities and services,

parking improvements, and related signage.

- a) Conservation areas, mitigation areas, and wildlife habitats, including the maintenance of any plant or animal species, and any related interest in any real or personal property.

3. Any other project within or without the boundaries of **KILLARNEY** when a local government has issued a development order pursuant to §380.06 and §380.061 approving or expressly requiring the construction or funding of a project by **KILLARNEY**, or when the project is the subject of an agreement between **KILLARNEY** and a governmental entity as consistent with the Comprehensive Plan or the local government within which the project is to be located. After the **BOARD** has obtained the consent of the local general purpose government within the jurisdiction of which the power specified in this subsection is to be exercised to plan, acquire, construct, or reconstruct, enlarge or extend, equip, operate, maintain additional systems and facilities for.

- a) Parks and facilities for indoor and outdoor recreation, cultural, and educational uses.
- b) School buildings and related structures which may be leased, sold, or donated to the school district for use in the education system when authorized by the district school board.
- c) Security - including, but not limited to guardhouses, fences and gates, electronic intrusion - detection systems and patrol cars, when authorized by proper government agencies; except that **KILLARNEY** may not exercise any police power, but may contract with the appropriate local general purpose government agencies for an increased level of such services within **KILLARNEY**.
- d) Control and elimination of mosquitoes and other arthropods of

public health importance.

e) **KILLARNEY** shall not engage in any waste collection or disposal.

4. To adopt and enforce appropriate rules following the procedures of Chapter 120, in connection with the provision of one or more services through its systems and facilities.

C. **KILLARNEY** possesses no zoning or development permitting power. All Hernando County planning, building, environmental, and land development laws, regulations, and ordinances apply to all development of land within **KILLARNEY**. **KILLARNEY** shall take no action which is inconsistent with the applicable Comprehensive Plan, ordinances, or regulations of Hernando County.

SECTION 3. BOUNDARIES OF THE KILLARNEY

KILLARNEY shall consist of all properties within the area described in Exhibit "A" attached hereto and incorporated herein.

SECTION 4. KILLARNEY'S BOARD OF SUPERVISORS

The **BOARD** shall be the governing board of **KILLARNEY**. The **BOARD** shall exercise the powers granted to **KILLARNEY** pursuant to this ordinance and Chapter 190, Florida Statutes, and any other applicable law.

A. Membership

1. The initial **BOARD** shall consist of the following five (5) members:
 - a) Charles B. Funk
 - b) Jeffrey B. Funk
 - c) Thomas J. Panaseny
 - d) John Blakley
 - e) Sarah Phillips Benbury

The **BOARD** shall consist of five (5) members; except as otherwise provided herein, each member shall hold office for a term of four (4) years, until a successor is chosen and qualifies.

The members of the **BOARD** must be residents of the State and citizens of the United States.

2. a) Within ninety (90) days following the effective date of this ordinance establishing **KILLARNEY**, there shall be a meeting of the landowners of **KILLARNEY** for the purpose of electing five (5) supervisors for **KILLARNEY**. Notice of the landowner's meeting shall be published once a week for two (2) consecutive weeks in a newspaper which is in general circulation in the area of **KILLARNEY**, the last day of such publication to be not fewer than fourteen (14) days or more than twenty-eight (28) days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a Chair who shall conduct the meeting.
- b) At such meeting, each landowner shall be entitled to cast one (1) vote per acre of land owned by him or her and located within **KILLARNEY** for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre shall be treated as one (1) acre, entitling the landowner to one (1) vote with respect thereto. The two candidates receiving the highest number of votes shall be elected for a period of four (4) years and the three (3) candidates receiving the next largest number of votes shall be elected for a period of two (2) years. The members of the first **BOARD** elected by landowners shall serve their respective four (4) year or two (2) year terms; however, the next election by

landowners shall be held on the first Tuesday in November.
Thereafter, there shall be an election of supervisors for
KILLARNEY every two years in November on a date established
by the **BOARD** and notice as specified above, in paragraph 2(a).
The two candidates receiving the highest number of votes shall be
elected to serve for a four (4) year period, and the remaining
candidate elected shall serve for a two (2) year period.

3. If the **BOARD** proposes to exercise the ad valorem taxing power
authorized by Section 190.021, Florida Statutes, the **BOARD** shall call an election at which the
members of the **BOARD** will be elected. Such election shall be held in conjunction with a
primary or general election unless **KILLARNEY** bears the cost of a special election. Each
member shall be elected by the qualified electors of **KILLARNEY** for a term of four (4) years,
except that, at the first such election, three (3) members shall be elected for a period of four (4)
years and two (2) members shall be elected for a period of two (2) years. All elected Board of
Supervisor members must be qualified electors of **KILLARNEY**.

4. Members of the **BOARD** shall be known as supervisors and, upon
entering into office, shall take and subscribe to the oath of office as prescribed by §876.05.
They shall hold office for the terms for which they were elected or appointed and until their
successors are chosen and qualified. If, during the term of office, a vacancy occurs, the
remaining members of the **BOARD** shall fill the vacancy by an appointment for the remainder of
the unexpired term.

5. A majority of the members of the **BOARD** constitutes a quorum for the
purposes of conducting its business and exercising its powers and for all other purposes. Action
taken by **KILLARNEY** shall be upon a vote of a majority of the members present unless general
law or a rule of **KILLARNEY** require a greater number.

6. As soon as practicable after each election or appointment, the **BOARD** shall organize by electing one of its members as Chairman and by electing a Secretary, who need not be a member of the **BOARD**, and such other officers as the **BOARD** may deem necessary.

7. The **BOARD** shall keep a permanent record book entitled "Record of Proceedings of the Killarney Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to Chapter 119. The record book shall be kept at the office or other regular place of business maintained by the **BOARD** in Hernando County.

8. Each supervisor shall be entitled to receive for his or her services an amount not to exceed \$200 per meeting of the **BOARD** not to exceed \$4,800 per year, per supervisor, or an amount as may be established by the electors of **KILLARNEY** at referendum. In addition, each supervisor shall receive travel and per diem expenses as set forth in §112.061, Florida Statutes.

9. All meetings of the **BOARD** shall be open to the public and governed by the provisions of Chapter 286, Florida Statutes.

B. General Duties of the BOARD

1. The **BOARD** shall employ, and fix the compensation of a Manager for **KILLARNEY**. The Manager shall have charge and supervision of the works of **KILLARNEY** and shall be responsible for preserving and maintaining any improvement or facilities constructed or erected pursuant to the provisions of this ordinance or state statute, for maintaining and operating the equipment owned by **KILLARNEY**, and for performing such other duties as may be prescribed by the **BOARD**. It shall not be a conflict of interest under Chapter 112 for a

BOARD member or the Manager or another employee of **KILLARNEY** to be a stockholder, officer, or employee of a landowner. The Manager may hire or otherwise employ and terminate the employment of such other persons, including without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the **BOARD**. The compensation and other conditions of employment of the officers and employees of **KILLARNEY** shall be as provided by the **BOARD**.

2. The **BOARD** shall designate a person who is a resident of the State as Treasurer of **KILLARNEY**, who shall have charge of the funds of **KILLARNEY**. Such funds shall be disbursed only upon the order, or pursuant to the resolution, of the **BOARD** by warrant or check countersigned by the Treasurer and by such other person as may be authorized by the **BOARD**. The **BOARD** may give the Treasurer such other or additional powers and duties as the **BOARD** may deem appropriate, and may fix his or her compensation. The **BOARD** may require the Treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the **BOARD** to secure the performances by the Treasurer of his powers and duties. The financial records of the **BOARD** shall be audited by an independent Certified Public Accountant at least once a year.

3. The **BOARD** is authorized to select as a depository for its funds any qualified public depository as defined in §280.02, Florida Statutes, which meets all the requirements of Chapter 280 and has been designated by the Treasurer as a qualified public depository, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited that the **BOARD** may deem just and reasonable.

SECTION 5. ADMINISTRATION, OPERATION AND FINANCING OF KILLARNEY

The operation, duration, requirements for disclosure, including, but not limited to budget reporting, financial reporting, levying, or imposition of ad valorem taxes or special assessments and all other practices of **KILLARNEY** shall be in accordance with Chapter 190, Florida

Statutes, as it may be amended from time to time and any other applicable law.

SECTION 6. SEVERABILITY

It is declared to be the intent of the Board of County Commissioners of Hernando County, Florida, that if any section, subsection, clause, sentence, phrase or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. INCLUSION IN THE CODE

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective upon filing with the Department of State.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS in Regular Session this

1st day of November, 2000 A.D.



Attest: Karen Nicolai
KAREN NICOLAI
Clerk

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

By: Paul H. Sullivan
PAUL H. SULLIVAN
Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY William Panty 11/06/00
County Attorney's Office