

Rivington CDD

Frequently Asked Questions and Answers

Purpose: The information in this document is intended to inform residents about the Rivington CDD and dispel rumors and misinformation within the community.

More information about the Rivington CDD is available on its website, www.RivingtonCDD.org.

1. What is a community development district (“CDD”)?

A special-purpose unit of local government that is governed by a five-member Board of Supervisors that began with developer representatives and in November 2024 will begin the transition of adding residents and registered voters to the CDD Board.

2. How did the CDD get set up? Who created and chartered your CDD? Why are CDDs needed?

- a. The developer (who owned 100% of the lands within the CDD) submitted a petition to establish the CDD, and the City Council of DeBary passed an Ordinance in 2018 establishing the CDD.
- b. The Florida Legislature drafted the charter for all CDDs to provide a way to meet the need to provide infrastructure improvements to developable lands that is an alternative to counties, cities, or developers providing them. *[See your charter in Florida Statutes Sections 190.006 to 190.041, Florida Statutes.]*
- c. The CDD is more efficient and more focused than the alternative of using counties and cities with their legitimate but substantial bureaucracy used to accomplish their general purposes, rendering less constant and focused attention by counties and cities to the infrastructure in your community. A CDD can also provide a higher level and more enhanced services than a city or county can, or will, provide.

3. Why was the Rivington CDD created and what is its purpose?

The CDD was created to finance and manage the acquisition, construction, operation, and maintenance of certain public infrastructure necessary for the community. The Ordinance establishing the CDD authorizes the CDD to issue bonds for the purpose of financing, funding, planning, establishing, acquiring, constructing or reconstructing, enlarging or extending, and/or equipping stormwater management, water supply, sewer and wastewater management, drainage systems, bridges or culverts, roadways, street lights, landscaping, sidewalks and boardwalks, recreational facilities, and other basic infrastructure projects within or outside the boundaries of the CDD. These responsibilities are important because the intrinsic quality of Rivington and the value of its homes, other buildings, and real estate are enhanced by how well the public infrastructure is constructed, operated, maintained, and sustained.

4. How does the purpose of the CDD compare to the purposes of counties and cities?

- a. Counties and cities are also local governments, but unlike the CDD, they have broad home rule powers to manage a host of general powers including zoning, planning, and police power.
- b. Counties and cities are general-purpose governments and can do as they choose except what is prohibited by law.
- c. CDDs and other special districts are special-purpose governments and are limited by what State law and the Ordinance establishing the CDD expressly allows.

5. What are the limitations of a CDD?

There are **two categories** of such limitations, and they are strictly construed.

The first category is the **procedural** limitations that also apply to counties and cities (such as open noticed meetings of its elected board, public record requirements, competitive procurement, the code of ethics, and conflicts of interest).

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The second category is **substantive** limitations (such as no zoning or land use powers or the ability to exercise any police or regulatory power). A CDD has limited powers specifically listed in Chapter 190, Florida Statutes, and the ordinance establishing the CDD.

6. Are the members of the CDD governing board public officials?

Yes, and they are held to the laws of Florida, just as any other public official, including Sunshine law, public records law, and code of ethics for public officials (more information on those below).

7. Why do I pay assessments, how are they calculated, and what can I expect to pay annually?

- a. WHY:** All landowners will pay non-ad valorem special assessments related to capital costs and operation and maintenance costs of CDD facilities and services. Bonds were issued to fund these capital costs, and the bonds were secured by pledged revenues which are collected on behalf of the CDD in the form of non-ad valorem assessments on the properties within the CDD that benefit from the capital improvements. “*Non-ad valorem*” means these are not based on property values, as opposed to how your ad valorem real estate property taxes are determined based on value.
- b. HOW:** The annual assessment is comprised of two components: debt service and maintenance.
 - i. The **debt service component** is the fixed amount required to amortize the debt for the infrastructure and facilities acquired or constructed by the CDD. The annual debt assessment collected for each property has been determined based upon use of each parcel. The CDD has levied a debt assessment against your property that is based on benefit and your pro-rata share of the cost of the public infrastructure and facilities financed by the CDD.
 - ii. The **maintenance component** is an annually recurring assessment for the operation and maintenance of CDD infrastructure and facilities. Each year, the Board of Supervisors holds a public hearing to adopt the annual budget and set the level of operations and maintenance assessments. Included in the annual operations and maintenance assessment is your pro-rata share of the annual costs to administer the CDD.
- c. WHAT:** The CDD issued two bond series—2020 and 2022—to construct the public infrastructure and facilities benefitting all properties within the CDD.
 - i. **Series 2020:** 30-year bonds for Phase 1, providing funding for a portion of the infrastructure including earthwork, roadways, drainage, water and sewer facilities, reuse system, hardscape and landscape improvements, recreational facilities, and wetland mitigation, with the last bond payment scheduled for May 2050.
 - ii. **Series 2022:** 30-year bonds for Phases 2, 3, and 4, providing funding for a portion of infrastructure including earthwork, roadways, drainage, water and sewer facilities, reuse system, hardscape and landscape improvements, recreational facilities, and wetland mitigation, with the last bond payment scheduled for May 2052.
 - iii. These debt service assessments are fixed over the life of the bonds and are included on the annual real estate tax bills. Any homeowner has the option of paying down this debt assessment early, either in part or in whole, which will either reduce or eliminate the annual debt assessment levied on the property. For information on paying down your debt assessment, please contact the Assessment Department at 954-603-0034.
 - iv. For those homeowners choosing not to pay down their debt assessment early, you will pay this assessment only for the period of time that you own your home, or until their final bond payment date (shown in the above list), whichever is sooner. If you sell your home before the CDD bonds are paid off, the next owner becomes responsible for paying their share of the cost of the infrastructure and facilities.
 - v. The operations and maintenance assessment may vary from year to year based upon the CDD’s general fund budget adopted each year after an advertised, public hearing. The

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CDD operates in the same fiscal year as other governmental entities, which year begins October 1 and ends September 30 the following year. The CDD's budget and the assessment schedule for each fiscal year show the maintenance assessments by product type.

- vi. The debt assessment component added to the operations and maintenance assessment component result in the total non-ad valorem assessments included on your annual real estate tax bill.
- vii. While these CDD assessments are not taxes, *per se*, they will appear on your property tax bill that you receive in November of each year and will be collected in the same manner as property taxes. An owner's failure to pay the CDD's assessments when due will result in consequences similar to those resulting from an owner's failure to pay property taxes. If you have a mortgage on your property and your taxes are escrowed, your assessments may be included in your monthly mortgage payment. In such case, your tax bill will be sent directly to your mortgage company and be paid from your escrow account.

8. What happens after all the bonds are paid off? Will the CDD cease to exist?

Once bonds are paid off or individual property owners pay off the debt associated with their lot, then only maintenance assessments are levied on the tax bills.

The CDD is a form of government and will exist into perpetuity unless dissolved by the City of DeBary pursuant to Florida Statutes. In case of dissolution, the City will continue to provide the same services as the CDD at the same or a lower cost, but in any case, the community will still be governed by a governmental entity.

9. What is the difference between the CDD and the Homeowners Association ("HOA")?

- a. The basic difference between the two is this: the CDD is a public, governmental entity, responsible for the public common areas within the boundaries of the CDD, and the HOA is a private entity, responsible for all private areas of the community.
- b. **HOA**
 - i. The primary role of an HOA is to ensure compliance of the rules, restrictions and community wide standards as outlined in the Declaration of Covenants, Conditions and Restrictions.
 - ii. Annual dues fund the required administrative operations as outlined in the annual HOA budget.
 - iii. The HOA is administered by a Board of Directors (elected by majority landowners) which meet regularly to conduct general HOA business.
 - iv. The HOA holds an annual owner meeting which includes election of the Board of Directors, annual dues and budget review, and residential owners' open discussion of general topics pertaining to the HOA.
- c. **Rivington CDD**
 - i. The CDD is empowered under Florida Statutes as a special-purpose local government.
 - ii. CDD non-ad valorem assessments appear as a line item on your annual Volusia County real estate property tax bill.
 - iii. The CDD is governed by a five-member Board of Supervisors, currently held by a majority of developer representatives but in November 2024 begins transitioning to residents and registered voters elected in the General Election. In the event of a vacancy, the remaining Board members will appoint a replacement for the rest of that term.
 - iv. The Board of Supervisors generally meets the last Wednesday of every other month at 11:30 a.m. at the recreation center.

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- v. The CDD is responsible for the maintenance of:
 - 1. Recreation center and pool
 - 2. Common area landscaping and playgrounds
 - 3. Common area Sidewalks
 - 4. Hardscape (e.g., entrance, common area fencing, and walls)
 - 5. Stormwater ponds and drainage structures
 - 6. Aquatic weed control

10. Can a HOA provide the maintenance of CDD infrastructure?

A HOA is not empowered to manage the provision of CDD infrastructure.

Why? Because an HOA is:

- a. private.
- b. designed to manage private commonly owned property;
- c. has very limited funding and income powers;
- d. is not equipped to acquire, construct, operate, maintain, and finance public infrastructure;
- e. does not have the protection of sovereign immunity; and
- f. does not have the revenue collection and enforcement powers of local government.

11. What are the benefits of a CDD?

- a. Transparency: the same rules and statutes apply to the CDD as other local governments
- b. Liability is limited and capped because of Sovereign Immunity. If HOA, then each owner is liable for any injuries on HOA property.
- c. Tax-exempt status for public purposes.
- d. Special assessments collected on tax roll = better rate of collection than HOA fees
 - i. Equal to priority of ad-valorem taxes and superior to all other mortgages and liens—even if they were recorded first

12. Sunshine Law (Chapter 286, Florida Statutes)

- a. The Sunshine Law requires that CDD business is conducted in the “Sunshine” or open to the public.
- b. CDD business is broadly defined to include any topic that the Board may take action on.
- c. Supervisors are only allowed to communicate about CDD business **with other Supervisors** on this same Board at a public meeting.
- d. Meetings between individual Supervisors and staff are not covered by the Sunshine Law, since no official decision making could result from such a meeting.
- e. The form the communication takes place is irrelevant; the law governs the subject matter rather than the form. (Example: Social media posts such as Facebook, emails, and texts are subject to the Sunshine Law)
- f. Cannot use intermediaries to circumvent the law. The District Manager and other staff may not share thoughts of other supervisors.
- g. A more detailed discussion of the Sunshine Law and Public Records Laws can be found in the “Government in the Sunshine Manual,” prepared by the Florida Office of the Attorney General online at www.myfloridalegal.com.

13. Public Records Law (Chapter 119, Florida Statutes)

- a. All CDD staff (including field and management staff and hired professionals) and CDD Supervisors are subject to Florida’s broad public records law.

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- b. All communications made or received by CDD staff and CDD Supervisors pertaining to topics the Supervisors may take action on are a public record.
- c. The District Manager's office is the public depository for all CDD records.
- d. The law governs the subject matter of the communication rather than the form the communication takes, so text messages and social media posts can be a public record.
- e. Any communications between you and residents of the community, vendors, or staff need to be maintained.

14. Ethics (Chapter 112, Florida Statutes)

- a. The Code of Ethics generally does two things: (1) prohibits certain actions or conduct and (2) requires certain disclosures be made to the public. The Code of Ethics is meant to ensure that public officials conduct themselves independently and impartially, promote the full and faithful discharge of their public duties, not use their positions for private gain, and to protect the integrity of and public confidence in government.
- b. Supervisors or their families should not accept or solicit anything of value for a vote.
- c. On matters which Supervisors or their family may receive a benefit from, they need to publicly announce a voting conflict before the vote, file a Form 8B disclosure with the manager, and abstain from voting.
- d. Violating the Code of Ethics can result in removal, suspension, public reprimand, restitution of any benefits received due to the violation, or a civil penalty of up to \$10,000.
- e. The Governor is authorized to suspend or remove a CDD Supervisor for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties.
- f. The State Attorney may investigate possible criminal violations.
- g. A more detailed discussion of the Code of Ethics can be found in the "Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees," prepared by the Florida Commission on Ethics online at <http://www.ethics.state.fl.us/>.

15. How are the Board Members elected or appointed?

- a. The Volusia County Supervisor of Elections handles the elections of Board Members.
- b. There is a qualifying period in June of each election year that any interested person must submit the required paperwork with the Supervisor of Elections.
- c. If there is only 1 candidate that qualified, then their name will not appear on the general election ballot and they will be deemed the winner
- d. If there are multiple candidates that qualified, then their names will appear on the general election ballot for the seat they qualified for, and the residents will be able to vote for the candidate of their choosing.
- e. The Volusia County Supervisor of Elections website has more information on how to qualify and about the election process:
<https://www.volusiaelections.gov/candidates/becoming-a-candidate.stml>
- f. If there is a vacancy on the Board, it is filled by appointment by the remaining Board members.

16. Quorum and Voting:

- a. Three supervisors physically at a meeting constitutes a quorum. Others can call in as long as a physical quorum is present, and Board is okay with the attendance through phone or video conferencing.
- b. Only need majority of those present to take action: If only three are present, then only need two out of three.

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17. Procurement and Public Bidding:

- a. Not required to publicly bid out every project or purchase.
- b. There are monetary threshold amounts for improvements require the CDD to publicly bid out the work pursuant to Florida law.
- c. The CDD has adopted Rules of Procedure, detailing how the CDD sends out a request for proposals (“RFP”), decides on a winner, and handles bid protests.
- d. The District Manager and staff are authorized to make certain expenditures under a set amount without first coming to the Board.

18. Other General items:

- a. CDDs are required to have an independent third party perform a financial audit each year.
- b. The CDD, Board of Supervisors, District Manager, and District Counsel have no authority to determine if there has been a violation of the Sunshine Law, Public Records Laws, or Code of Ethics.
 - i. Only a judge, state attorney (when criminal violations may have ethical issues) or the Commission on Ethics would be able to make such determinations.
- c. A CDD is required to operate and maintain an official website containing certain information Section 189.069, Florida Statutes).