

MEMORANDUM

TO: Board of Supervisors:
Villages Community Development Districts 1-10
Sumter Landing Community Development District
Village Center Community Development District
Brownwood Community Development District
(collectively referred to herein as the "Districts")

FROM: Valerie C. Fuchs, Number District Counsel

DATE: June 6, 2014

RE: Parking

Issue: Do the Districts have jurisdiction to regulate parking on right-of-ways and dedicated parking areas within their respective boundaries?

Answer:

No. The Districts have no law enforcement powers. Counties and municipalities are vested with exclusive original jurisdiction to control traffic over all streets, highways and roads open for public vehicular traffic use (i.e. all roads which the public has a right to travel). This jurisdiction includes the authority to install traffic control devices such as 'no parking' signs or 'tow-away zone' signs. The enforcement of the traffic laws of the state is vested in the sheriff's office of each of the counties and the police department of each of the chartered municipalities. The Districts' roads are open for public vehicular traffic use. Hence, counties and municipalities may exercise their traffic control jurisdiction over all District roads and those designated/dedicated parking areas which are open for public vehicular traffic use.

Discussion:

The Districts are special purpose governments created pursuant to Chapter 190, Florida Statutes (F.S.), created to provide and maintain basic services for community development including roadway systems and parking areas. The Districts have no law enforcement power. The Districts have no statutory authority to install or enforce traffic control devices within their respective boundaries, including 'no parking' signs or 'tow-away zone' signs even if the roads or parking areas are district owned and/or maintained.

As a statutorily created entity, the Districts only have such power as is expressly or by necessary implication granted by the legislative enactment creating them. Unlike counties or municipalities which have been granted home rule power, the Districts possess no inherent or home rule powers. Created by statute for a specific limited purpose, the Districts may exercise only that power and authority as it has been granted by law (i.e. Chapter 190, F.S.). Enforcement of traffic laws on district roads is not addressed in the Districts' enabling legislation. The Attorney General's Office has opined on several occasions that the state, counties and municipalities have exclusive jurisdiction of traffic control over roads upon which the public has a right to travel. See, AGOs 09-40, 09-16 & 09-10, 99-32 & 97-03.

Chapter 316, State Uniform Traffic Control, F.S., vests counties and municipalities with exclusive jurisdiction to control traffic over all streets, highways and roads upon which the public has a right to travel. Streets and highways are defined broadly and include "the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic". See, §316.003(53), F.S. This broad definition encompasses parking areas and lots. Municipalities are specifically granted original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to Department of Transportation ("DOT") specifications thereon as they deem necessary. See, §316.006(2), F.S. Counties are expressly granted original jurisdiction over all streets and highways within their boundaries, except state roads and municipal streets, and may place and maintain such traffic control devices which conform to DOT specifications thereon as they deem necessary. See, §316.006(3), F.S. In addition to said original jurisdiction, counties and municipalities may exercise traffic control jurisdiction over any "limited access" road(s) owned by a special district located within its boundaries if the county or municipality (whichever is applicable) and the special district enter into a written agreement for municipal or county traffic control jurisdiction over identified district roads. See, §316.006(2)(b) F.S. & 316.006(3)(b), F.S. Said agreement may encompass reimbursement for actual costs of traffic control and enforcement, liability insurance, indemnification by the parties and any other terms mutually agreeable. However, all the Districts' roads, including villa roads, and dedicated parking areas are open to the public for vehicular traffic use and thus, do not constitute "limited access" roads. Therefore, said agreement is not required.

In regards to parking and towing in particular, counties and municipalities have the authority to regulate parking and adopt ordinances to allow the towing of vehicles parked in violation of parking statutes or adopted ordinances on streets and highways under their jurisdiction, which includes all the roads owned by the Districts. See, §316.008, F.S. (counties/cities may regulate parking on 'streets and highways' under their jurisdiction); See also, §316.1951 (1),(4) & (10), F.S. (it is unlawful to park vehicle on public street or highway, public parking lot or other public property where the public has the right to travel by motor vehicle for the principal purpose of displaying the vehicle is for sale, hire or rental and county/city may adopt ordinance to allow

towing of violators; however, a person is not prohibited from parking his own vehicle on the public street immediately adjacent to his private property unless the city/county has adopted ordinance regulating such parking); §316.194, F.S. (no person shall park in street when practical to park off the street nor park in a manner which obstructs traffic; violators may be towed); and, §316.1945(c)(2) F.S. (no person shall park a vehicle at any place where official traffic control devices prohibit parking, violators ticketed).

CONCLUSION:

The Districts do not have jurisdiction to regulate parking or enforce traffic control devices on its right-of-ways or parking areas. The counties and municipalities have exclusive jurisdiction to regulate, post and enforce the states uniform traffic laws and their related ordinances over the streets and highways, which include parking areas/lots, situated within their boundaries that are open to public vehicular use including posting and enforcing 'no parking' signs and 'tow-away zone' signs.

All of the Districts' roads and dedicated parking areas are open to public vehicular traffic use. Hence, the traffic laws contained in Chapter 316, F.S., and traffic rules adopted by county or municipal ordinance fall under the original jurisdiction of and may be enforced by the applicable county sheriff's office or municipal police department thereon.

It should be noted that if a county/city has not adopted a parking ordinance or if its current parking ordinance is drafted in such a way that it only addresses county/city owned streets, the district(s) would need to request that the ordinance(s) be revised to address specific district parking concerns. For example, Sumter County's current ordinance prohibits parking in the county right-of-way. If a district situated in Sumter County desires Sumter County regulate parking on district owned right-of-ways or public parking areas the district would need to request that the County consider revising its ordinance to reflect desired district related parking prohibitions.

NOTE: This memo does not address temporary/visitor parking areas designated on villa plats and the issue of deed compliance. A county's or city's jurisdiction to enforce traffic laws and traffic control devices such as 'no parking' regulations would not extend to villa "temporary parking" areas designated on a district plat if the plat language limits the public's use in any fashion. For example, if the plat provides that lot owners are prohibited from parking thereon, then the area is not open for public vehicular traffic use. Hence, the county or city would not have any jurisdiction to enforce traffic control devices thereon. The parties could not even enter into an agreement regarding such regulation since the areas are not for public use.