

Chapter 6 BOATS, DOCKS AND WATERWAYS*

ARTICLE III. BURNT STORE ISLES CANAL MAINTENANCE ASSESSMENT DISTRICT

Sec. 6-33. Canal maintenance assessment district -- Creation.

There is hereby created a special district, to be known as the "Burnt Store Isles Canal Maintenance Assessment District," for the purpose of the maintenance of canals, waterways, and navigable channels, including the maintenance and reconstruction of bulkheads and retaining walls, which have been accepted or are hereafter accepted by the City of Punta Gorda, within the area comprising the district. The Burnt Store Isles Canal Maintenance Assessment District shall assume all of the assets, rights, liabilities and obligations of the former Burnt Store Isles Canal District created by City of Punta Gorda Ordinance No. 825-86, which is hereby dissolved.

Sec. 6-34. Same -- Area included within district.

- (a) The land comprising the Burnt Store Isles Canal Maintenance Assessment District is that land within the City of Punta Gorda, Charlotte County, Florida, legally described as follows:
Punta Gorda Isles, Section 15, as per plat recorded in the Official Records of Charlotte County, Florida, including the channel to the city limits in Alligator Creek; less Commercial Lots 1 through 25, inclusive; and less Block 228; and less Block 229, Lots 2 through 9 and Lots 20 through 25, inclusive; and less Block 230, Lots 1 through 8, inclusive, and Lots 20 through 25, inclusive; and less Blocks 283 through 294, inclusive; and less Tracts A, B, C, D, E, F, G, H, I, and Burnt Store Golf Villas; and less lands zoned Environmentally Sensitive.
- (b) The Burnt Store Isles Canal Maintenance Assessment District shall review and consider all requests to include lands not currently included within the district.
- (1) Requirements. Requests for inclusion and acceptance of lands into the Canal Maintenance Assessment District shall require the following:
- a. Submission of a written application by the property owner on such forms prescribed by the Canal Maintenance Division. The application must be signed and notarized by all owners of the property. If the property is part of a condominium association, an officer of the association authorized under its bylaws shall make the application on behalf of the property owners.
 - b. A copy of the deed or other evidence of property ownership.
 - c. A Digital Text File of the metes and bounds description of the property.
 - d. A written evaluation of the current condition of the existing seawall and seawall cap furnished by a Florida licensed marine contractor. Such written evaluation shall be obtained by the applicant at his/her sole cost and expense.
- (2) Review. Upon receipt of a complete request for inclusion of lands into the Canal Maintenance Assessment District, the Canal Maintenance Division shall verify the current condition of the existing seawall and shall prepare the proposed amendment to Subsection (a) of this Section, and submit the request along with recommendation to the Burnt Store Isles Canal Advisory Committee. The Burnt Store Isles Canal Advisory Committee shall consider the request at a duly noticed public hearing and provide recommendation to the Burnt Store Isles Canal Maintenance Assessment District. The Burnt Store Isles Canal Maintenance Assessment District shall consider the request at a duly noticed public hearing and shall either approve or deny the request.

- (3) Notice. Public Hearing Notice shall be advertised one time in a newspaper of general circulation at least fifteen (15) days prior to the public hearings.
- (4) Fee. The fee for acceptance of lands into the Burnt Store Isles Canal Maintenance Assessment District shall be equal to the total assessment which would have been due on the property from the inception of the district. This fee shall be calculated by the Finance Department upon receipt of the application. In the event that the seawall and seawall cap have been replaced, the fee shall be prorated to the date of such replacement. If the seawall and seawall cap have been replaced within the three (3) years preceding the request, the fee shall be waived. The Burnt Store Isles Canal Maintenance Assessment District shall have the authority to deny the request based on, but not limited to, the condition of the seawall.

(Ord. No. 1673-11, <sec> 1, 3-16-11)

Sec. 6-35. Same -- Governing body; advisory committee.

The Burnt Store Isles Canal Maintenance Assessment District shall be governed by a board of five members, who shall be the members of the city council of the City of Punta Gorda. The governing body shall appoint and be advised by a committee of five (5) residents of the district. The initial members of the advisory committee shall be the members of the advisory committee of the former Burnt Store Isles Canal District. The duties of the advisory committee include, but are not limited to:

- (a) Representing the residents and property owners in the district;
- (b) Reporting to and making recommendations to the city council on matters concerning functions of the district, to include holding public hearings on petitions for variances for the purpose of recommending to the City Council approval or denial of said variances from the provisions of section 6-6(c) or any other variance request located on land abutting and lying within six (6) feet of the seawall; and
- (c) Working with the City Manager in determining priorities concerning work to be done by the district.

(Ord. No. 1669-11, <sec> 2, 3-2-11)

Sec. 6-36. Same -- Powers of district.

The Burnt Store Isles Canal Maintenance Assessment District shall have the following powers, to be exercised through its governing body, together with all other powers necessary to the effective maintenance of existing canals, waterways and navigable channels within the district, to the effective maintenance and reconstruction of bulkheads and retaining walls within the district, and to the imposition and collection of special assessments for such purposes:

- (a) To sue and be sued in its own name;
- (b) To adopt and use a seal;
- (c) To acquire and own property in its own name;
- (d) To enter into contracts to effectuate the purposes of the district;
- (e) To borrow and expend money and to issue bonds and revenue certificates and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;

- (f) To levy and collect annual special assessments on each subdivided lot within the district which is zoned for single-family residential use, pro-rated in the case of ownership of partial lots according to the proportion of the original subdivided lot area held, and, for all properties zoned otherwise, to levy and collect annual special assessments equal to one ten-thousandth of a single-family lot assessment for each square foot of land lying less than one hundred twenty (120) lineal feet from any dedicated canal or waterway, or from seawalls or bulkheads abutting Charlotte Harbor; and
- (g) To provide for the levying of such assessments on annual tax bills, as non-ad valorem assessments, in accordance with Florida Statutes.

Sec. 6-37. Same -- annual assessments.

The Burnt Store Isles Canal Maintenance Assessment District shall each fiscal year levy an assessment sufficient to fund the necessary and expected expenses for such fiscal year and to provide a reasonable contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences. Notices of proposed assessments shall be included, as non-ad valorem assessments, on the notices of proposed taxes mailed each year by the Charlotte County Tax Collector. Each year, the governing body of the district shall hold a public hearing on the amounts of assessments, with such hearing to be in conjunction with the City of Punta Gorda budget hearings. The district shall publish a notice of said public hearing at least five (5) days in advance thereof in a newspaper of general circulation in Charlotte County. At such public hearing, all persons assessed within the district shall have the opportunity to contest the amount of their assessments and the value of the special benefit to their properties upon which such assessment is based.

Sec. 6-38. Same -- finding of special benefit.

In creating the Burnt Store Isles Canal Maintenance Assessment District, the City Council finds and determines that the special benefits to each property owner in the district--through the sharing of costs of maintaining all canals, seawalls, and navigation channels in the district; through the shared use of such canals; by the property value created and enhanced by a functioning, well-maintained and safe canal system; and through the provision of a contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences--exceeds each property owner's share of the costs of the necessary and expected expenses incurred by the district each year.

Sec. 6-39. Same -- use of City employees and equipment.

The City Manager is authorized and directed to use City employees and equipment in assisting the Burnt Store Isles Canal Maintenance District in performing its obligations and duties set out in this article and to charge the district the reasonable costs thereof incurred by the city. By accepting the use of such employees and equipment, the district shall agree to pay such costs, which shall be included in the annual assessments.

(Ord. No. 1156-96 <sec> 3, 07-03-96, Ord. No. 1163-96 <sec> 3, 09-18-96)