

LEE COUNTY ORDINANCE NO. 19-11

AN ORDINANCE TO AMEND CERTAIN OPERATING PROVISIONS AND THE SERVICE AREA OF THE EAST MULLOCH WATER CONTROL DISTRICT, NOW A DEPENDENT SPECIAL DISTRICT OF LEE COUNTY UNDER FLORIDA STATUTES CHAPTER 189; PROVIDING FOR RECITALS, AUTHORITY, MODIFICATION OF THE DISTRICT BOUNDARIES, AMENDMENT OF QUALIFICATIONS OF SUPERVISORS, AND AN INCREASE OF THE ANNUAL MAINTENANCE ASSESSMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR ADOPTION AND EFFECTIVE DATE.

WHEREAS, the East Mulloch Drainage District was first created in 1963, by the Florida Legislature, as an independent special district under Chapter 298, Florida Statutes (F.S.), and responsible for maintaining canals, water retention ponds and drainage structures in Lee County, Florida, in an area of approximately 3,000 acres, primarily known as San Carlos Park; and

WHEREAS, over the years the Florida Legislature has modified aspects of the East Mulloch Drainage District; and

WHEREAS, the most recent legislation, House Bill No. 1089, Ch. 2018-74, Laws of Fla., effective July 1, 2018, dissolved the East Mulloch Drainage District and created the successor/replacement East Mulloch Water Control District (the "*District*"), as a *dependent special district* of Lee County to operate under Florida Statutes Chapter 189; and

WHEREAS, the Board of County Commissioners of Lee County, Florida (the "*County*"), has the legal authority to revise, amend or repeal the ordinance for the charter of the District; and

WHEREAS, the County has carefully reviewed the options available to best assist the District to undertake a more active and beneficial role in its tasks to maintain canals, water retention ponds and drainage structures within the service area of the District; and

WHEREAS, the County presents this ordinance to restore the District boundaries that were inadvertently modified by HB 1089 in 2018, in the creation of the District; to require three supervisors of the District to be owners of real property within the service area of the District as the precondition to service; and to increase the annual maintenance assessment to allow the District to afford legal and professional services necessary to best serve those properties in the service area of the District.

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

SECTION ONE: RECITALS

The above recitals are hereby incorporated into this Ordinance as if restated herein.

SECTION TWO: AUTHORITY

This Ordinance is authorized by Section 2 of House Bill No. 1089, Ch. 2018-74, Laws of Fla.), effective July 1, 2018; Florida Statutes Chapter 189; and other applicable law.

The Charter of the East Mulloch Water Control District is subject to revision, amendment or repeal by the Board of County Commissioners of Lee County, Florida.

SECTION THREE: MODIFICATION OF DISTRICT BOUNDARIES

The Board of County Commissioners of Lee County, Florida, consent to and authorize modification of the East Mulloch Water Control District boundaries, with those boundaries to be modified as follows:

The legal description of the District contained in the Charter of the East Mulloch Water Control District, as adopted and set forth in House Bill No. 1089, Ch. 2018-74, Laws of Fla.), effective July 1, 2018, is stricken and returned to the configuration of the District immediately prior the foregoing change to the District boundary made effective on July 1, 2018. The intended legal description to result from this change in attached hereto on Exhibit "A" and incorporated fully herein by reference.

SECTION FOUR: QUALIFICATION OF SUPERVISORS

Pursuant to House Bill No. 1089, Ch. 2018-74, Laws of Fla.), effective July 1, 2018, Section 4, subsection (2)(a) of the Charter of the East Mulloch Water Control District provides:

"The board of supervisors shall be comprised of three persons who reside in the district and are appointed by the board of county commissioners."

This provision is amended to read as follows (words ~~stricken~~ are deletions; words underlined are additions):

"The board of supervisors shall be comprised of three persons who reside own real property in the district and are appointed by the board of county commissioners."

SECTION FIVE: INCREASE OF ANNUAL MAINTENANCE ASSESSMENT

Pursuant to House Bill No. 1089, Ch. 2018-74, Laws of Fla.), effective July 1, 2018, Section 5 of the Charter of the East Mulloch Water Control District, the stated district assessment not to exceed \$30.10 per acre, per annum, is hereby increased to an amount not to exceed \$60.00 per acre (non-acreage prorated), per annum.

SECTION SIX: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or if any portion of this Ordinance is found for any reason to be inoperative, invalid, void or unconstitutional by any court of competent jurisdiction, such portion of the Ordinance shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

SECTION SEVEN: CODIFICATION AND SCRIVENER'S ERRORS

The Board intends that this ordinance will be made part of the Lee County Code; and that sections of this Ordinance can be re-numbered or re-lettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification and, regardless of whether this ordinance is ever codified, the Ordinance can be re-numbered or re-lettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager, or his designee, without the need for a public hearing.

SECTION EIGHT: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s). Such modifications will be incorporated into the final version.

SECTION NINE: ADOPTION AND EFFECTIVE DATE

This Ordinance was fully adopted upon the affirmative vote of a majority of the members of the Lee County Board of County Commissioners and will become effective after filing and receipt of official acknowledgment from the Florida Department of State.

Commissioner Mann made a motion to adopt the foregoing ordinance, seconded by Commissioner Manning. The vote was as follows:

John Manning	<u>Aye</u>
Cecil Pendergrass	<u>Aye</u>
District 3	<u>Vacant</u>
Brian Hamman	<u>Aye</u>
Frank Mann	<u>Aye</u>

DULY PASSED AND ADOPTED this 18th day of June, 2019.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Missy Flert
Deputy Clerk

BY: Brian Hamman
Brian Hamman, Vice Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

BY: John J. [Signature]
Lee County Attorney's Office

Attachment: Exhibit "A" – Legal Description of the District

EXHIBIT "A"

LEGAL DESCRIPTION FOR EAST MULLOCH WATER CONTROL DISTRICT

Chapter 83-443, House Bill 973 (June 14, 1983)

The boundaries of the District are as follows:

Commencing at the Northeast corner of Section 9, Township 46 South, Range 25 East in Lee County, Florida, run South 50 feet along the east line of Section 9 to the point of beginning;

Thence run West 50 feet South of and parallel to the North line of Section 9 to the West line of Section 9; thence run South along the West line of said Section 9 to the Northeast corner of the South 1/2 of the Southeast 1/4 of Section 8; thence run West along the North line of said South 1/2 of the Southeast 1/4 of Section 8 to the Northwest corner of the South 1/2 of the Southeast 1/4 of Section 8; thence run South along the West line of the South 1/2 of the Southeast 1/4 of Section 8 to the Southwest corner of the South 1/2 of the Southeast 1/4 of Section 8; thence run East along the South line of Section 8 to the Northwest corner of Section 16; thence run South along the West line of Section 16 to the center of said West line of Section 16; thence run West along the North line of the South 1/2 of Section 17 to the Northwest corner of the East 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17; thence run South along the West line of the East 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17, to the Southwest corner of the East 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17, thence run East to the North-South centerline of Section 17; thence run South along the centerline of Section 17 to the Southwest corner of the Southeast 1/4 of Section 17; thence run West on the South line of Section 17 to the Easterly Right of way of U.S. Highway 41; thence run Southeasterly along the Easterly right of way of U.S. Highway 41 to a point 200.27 feet Northwesterly of a point on said Right of way due West from the center of the East line of Section 20; thence run East to the East line of Section 20; thence run North along said East line of Section 20 to the Southwest corner of Section 16; thence run East along the South line of Section 16 to the Southeast corner of Section 16; thence run South along the West line of Section 22 to the Southwest corner of the Northwest 1/4 of Section 22; thence run East along the South line of the Northwest 1/4 of Section 22 to the Southeast corner of the Northwest 1/4 of Section 22; thence run North along the East line of the Northwest 1/4 of Section 22 to the Northeast corner of the Southwest 1/4 of Section 15; thence run West along the North line of the Southwest 1/4 of Section 15 to the Southeast corner of the West 3/4 of the Northwest 1/4 of Section 15; thence run North along the East line of the West 3/4 of the Northwest 1/4 of Section 15 to the Southwest corner of the Northeast 1/4 of the Northwest 1/4 of Section 15; thence East along the South line of the Northeast 1/4 of the Northwest 1/4 of the Northwest 1/4 of Section 15 to the Southeast corner of the Northeast 1/4 of the Northwest 1/4 of Section 15; thence run North along the East line of the Northeast 1/4 of the Northwest 1/4 of Section 15 to the Northeast corner of the Northeast 1/4 of the Northwest 1/4 of

Section 15; thence run North along the East line of the Southwest ¼ of Section 10 to the Northeast corner of the Southwest ¼ of Section 10; thence run West along the North line of the Southwest ¼ of Section 10 to the Northwest corner of the Southwest ¼ of Section 10; and thence run North on the East line of Section 9 to the point of beginning.

Chapter 86-425, House Bill No. 1038 (July 14, 1986)

The boundary of the District is expanded to include the land described as follows:

A tract of land lying in Section 15, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Beginning at the Northwest corner of the Southeast quarter of said Section 15, run S. 84°08'36" E. for 356.42 feet; thence S. 63°23'58" E. for 417.26 feet; thence S. 74°58'32" E. for 53.83 feet; thence N. 13°30'24" W. for 241.56 feet; thence N. 76°29'36" E. for 264.18 feet; thence S. 13°30'24" E. for 483.39 feet; thence S. 11°00'00" E. for 246.44 feet; thence Southerly along the arc of a curve to the right through a central angle of 55°40'01" (Radius of 920.00 feet; chord bearing S. 16°50'01" W.; chord length 859.10 feet) for 893.85 feet; thence S. 44°40'01" W. for 222.08 feet; thence Southwesterly along the arc of a curve to the left through a central angle of 13°39'14" (Radius of 920.00 feet; chord bearing S. 37°50'24" W.; chord length 218.72 feet) for 219.24 feet; thence S. 89°40'01" W. for 590.43 feet to the West line of the said Southeast quarter; thence N. 0°19'59" W. for 1808.93 feet to the Point of Beginning.

Said lands containing 40.81 acres, more or less.

Bearings used herein refer to the said West line of the Southeast quarter of Section 15 as being N. 0°19'59" W.

Chapter 88-480, House Bill 6007 (June 20, 1988)

The boundary of the District in Lee County is expanded to include the land described as follows:

A tract of land in the North Half (N 1/2) of Section 10, Township 46S, Range 25E, Lee County, Florida, lying southerly of the Alico Road right-of-way line and westerly of the I-75 right-of-way line.

Said lands containing 140 acres, more or less.

(051719/1625)

EAST MULLOCH WATER CONTROL DISTRICT AS OF JUNE 14, 1983 (HB 973)

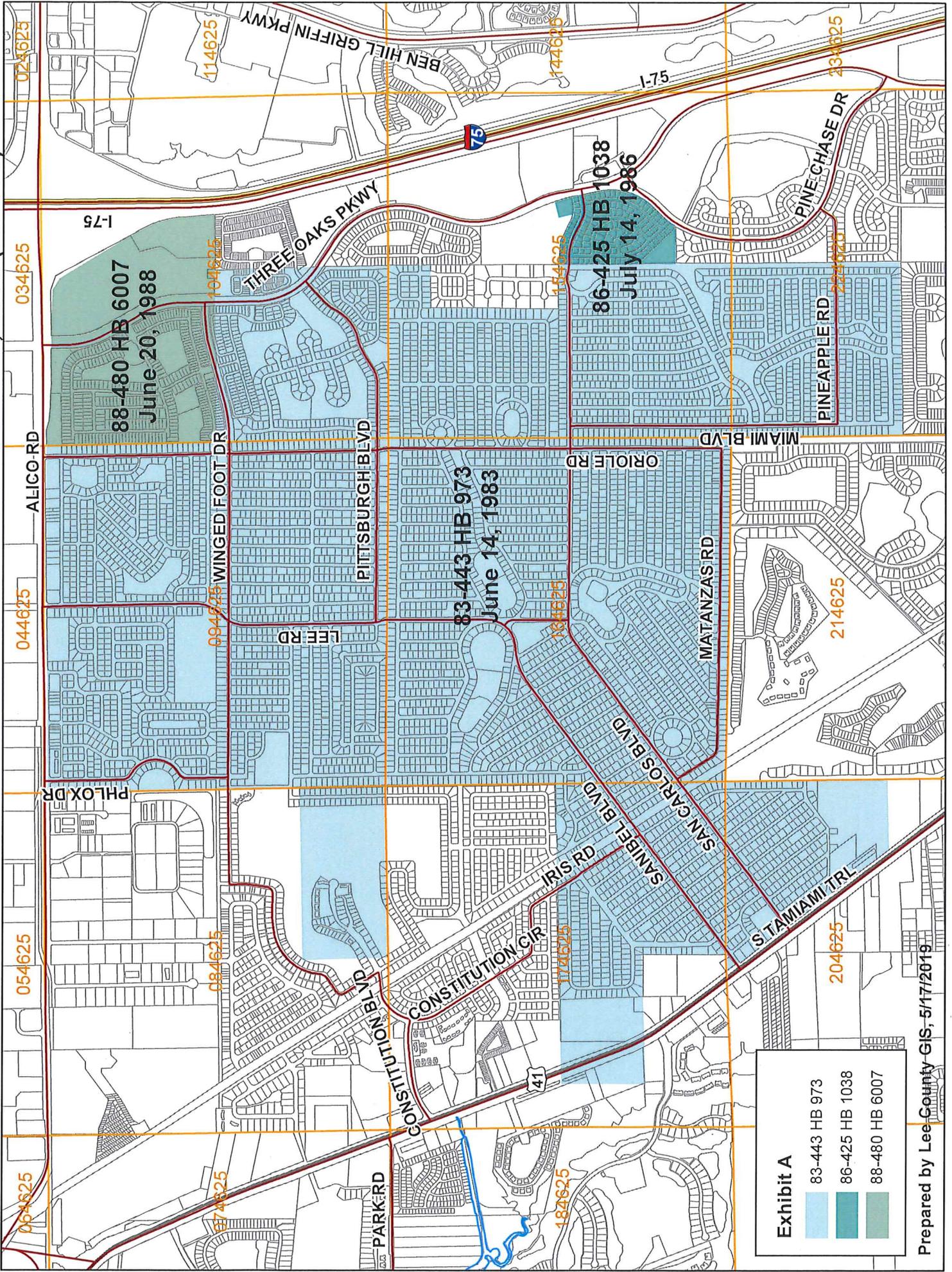


Exhibit A

- 83-443 HB 973
- 86-425 HB 1038
- 88-480 HB 6007

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 19-11

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Special Districts

SECONDARY KEYFIELD

DESCRIPTOR: _____

OTHER KEYFIELD

DESCRIPTOR: _____

ORDINANCE DESCRIPTION: East Mulloch WCD

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: _____ AMENDMENT #2: _____

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: _____ ; REPEAL #3: _____

REPEAL #2: _____ ; REPEAL #4: _____

(Others Repealed: List All That Apply): _____

(FOR OFFICE USE ONLY):

COUNTY CODE NUMBER: _____

KEYFIELD 1 CODE: _____

KEYFIELD 2 CODE: _____

KEYFIELD 3 CODE: _____



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

June 19, 2019

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Missy Flint

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 19-11, which was filed in this office on June 18, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb