

COUNTY OF ALBEMARLE



MEMORANDUM

TO: Albemarle County Board of Supervisors

FROM: Greg Kamptner, County Attorney

DATE: February 11, 2019

RE: *Service districts*

This memorandum provides general information about service districts, and it is an update of a prior memorandum to the Board dated December 2, 2016 on this topic. The primary source for the information regarding service districts is Virginia Code § 15.2-2400 *et seq.*

1. Introduction

Service districts are a tool that have been authorized by State law since 1962. Service districts may be created to provide *additional, more complete, or more timely services*¹ of government than are desired in the locality as a whole. Service districts are *geographic areas* established by the Board of Supervisors, composed of less than all of the County's territory.

2. General requirements to establish a service district

Service districts are established by an ordinance adopted by the Board of Supervisors following an advertised public hearing. An ordinance creating a service district must include the following elements: (1) the name of the district; (2) a description of the boundaries of the district, which may also specify any areas within the district that are to be excluded; (3) a description of the purposes of the district; (4) a description of the facilities and services proposed to be provided in the district; (5) a description of a proposed plan for providing the facilities and services; and (6) a description of the benefits that can be expected from providing the facilities and services.

Service districts also may be established by two or more localities upon the adoption of concurrent ordinances that include the above elements.

3. Facilities and services that may be provided within a service district

Upon establishing a service district, the Board of Supervisors may provide a range of facilities and services under Virginia Code § 15.2-2403.

The facilities that may be constructed, maintained, and operated include general government facilities, dams, sewerage (sanitary and stormwater), garbage removal and disposal, lights, fire-fighting equipment, sidewalks,

¹ Although Virginia Code § 15.2-2400 states generally that service districts are created to provide additional, more complete, or more timely services, Virginia Code § 15.2-2403, the section that delineates the facilities and services that may be provided in the district, imposes the requirement of additional, more complete, or more timely services only on certain facilities and services, but not on all. This issue is further identified in Section 3 and this apparent inconsistency will be resolved.

beautification and landscaping, and public parking. These facilities must “be necessary or desirable to provide additional, more complete, or more timely services within a district.”

The services that may be provided include economic development services, promoting business and retail development, dredging creeks and rivers to maintain existing uses, controlling specified insect infestations providing extra security, street cleaning, snow removal and refuse collection services, sponsorship and promotion of recreational and cultural activities, and “other services, events, or activities that will enhance the public use and enjoyment of and the public safety, public convenience, and public well-being within a service district. These facilities must “be necessary or desirable to provide additional, more complete, or more timely services within a district.”

The transportation facilities and services that may be provided are road construction, including both new roads and improvements to existing roads, rehabilitating and replacing existing transportation facilities or systems, sound walls and sound barriers. Transportation services that may be provided are public transportation systems serving the district and transportation management services. Transportation facilities and services are not subject to the same requirement imposed on the general facilities and services that they “be necessary or desirable to provide additional, more complete, or more timely services within a district.”

Open space easements may be acquired within a service district using service district revenue. Exercising this authority is not subject to the requirement that it “be necessary or desirable to provide additional, more complete, or more timely services within a district.”

4. Facilities and services that may not be provided within a service district

There are three facilities and services that may not be funded by the revenue generated within a service district – schools, police, and general government services not otherwise authorized by the service district enabling authority.

5. Funding a service district

A service district is funded from a range of sources, the primary source of which is an ad valorem tax on the real property subject to local taxation within the district.

The tax is levied and collected by the Board. The tax may be levied on taxable land zoned for residential, commercial, industrial, or other uses, or any combination thereof. The tax may be levied only upon the specific classification of land that the Board deems the provided governmental facilities or services to benefit. Land subject to use valuation is taxed at its use value unless the owner consents in writing to have the land taxed at its full assessed value. The proceeds from the tax must be segregated to ensure that the tax revenues are expended in the district in which they are raised.

In addition to the ad valorem tax, the Board is authorized to appropriate any amount of funds that it deems appropriate from the County’s general fund to pay for the facilities and services described in Section 3.

Lastly, costs and expenses for facilities and services may be paid for by allocations or reimbursements from any other source, including any person, locality, or state or federal agency.

6. Examples of the purposes for which counties have established service districts

There are numerous purposes for which counties, cities, and towns have established service districts. Below is a very short list of examples of the purposes for which counties have established service districts:

- Branding and marketing, physical enhancements, and services in the Ballston area (Arlington).
- Marketing, visitor information, and landscaping in the Crystal City area (Arlington).
- Landscaping for the Midlothian Turnpike (Chesterfield).

- Planning and constructing infrastructure and transit routes and operating a transit system for the Tysons Corner area (Fairfax).
- Providing stormwater management facilities (Fairfax).
- Providing street lights, sidewalks, stormwater management facilities, and trees (Fauquier).
- Purchasing development rights (open space easements) (Fauquier).
- Providing public water and sewer infrastructure for industry in Dulles area (Loudoun).

A more complete list of the purposes for which service districts have been established by other localities can be provided at a later date.

7. Other enabled tools

Following are very brief descriptions of other revenue tools enabled under State law:

- Community development authorities (“CDA”): Allows infrastructure improvements in small defined areas to be funded by an ad valorem tax or a special assessment.
- Tax increment financing: Allows any increase in tax revenues within a development project area to be pledged to repay infrastructure financing.
- Tax increment financing by agreement: Allows a locality to enter into an agreement with a CDA or the locality’s economic development authority (“EDA”) to pay over a defined portion of tax revenues to support bonds issued by the CDA or the EDA.
- Assessments for local improvements: Allows a special tax to be imposed on abutting landowners for sidewalks on existing streets, constructing or using sanitary sewers or stormwater management facilities, installing street lights, and other permanent amenities.
- Stormwater utilities: Allows charges to be imposed on landowners, and the charge is based on the actual costs incurred by the locality to provide stormwater management facilities and services.
- Road impact fees: Allows an impact fee, supported by a study, to be imposed on new development (including by right development) to pay for all or part of the cost of road improvements that benefit the new development.

These tools can be as limited in geographic scope as a single development project (tax increment financing) or as broad in geographic scope as the entire county (stormwater utility), and the revenue can come from taxes, special assessments, charges, and fees.

8. Some advantages and disadvantages of service districts

The advantages of a service district include: (1) enabling the County to provide facilities and services in a targeted manner to selected areas; (2) allowing the County to provide facilities and services more quickly than it might be able to provide otherwise; and (3) enabling the County to provide facilities and services it might not otherwise provide at all, or at the levels desired.

The disadvantages of a service district include: (1) the taxes impose an additional tax burden on the landowners within the district; (2) the taxes are “overlapping” taxes, and financial rating agencies will balance the burden of additional taxes with the benefit of the additional revenue likely to be generated by the availability of additional facilities or services (although identified as a disadvantage, overlapping taxes typically would not impact the County’s general obligation bond rating); and (3) the debt of the service district would be an obligation of the County; as such, the debt service is subject to annual appropriation, and these obligations are considered riskier than others and may carry a higher interest rate.