**ORDINANCE NO. 2024-36**

LDR 24-13

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, ESTABLISHING THE WESTONE COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING FOR THE DISTRICT’S EXTERNAL BOUNDARIES; PROVIDING FOR FUNCTIONS AND POWERS OF THE DISTRICT; PROVIDING FOR THE INITIAL BOARD OF SUPERVISORS OF THE DISTRICT; ADDRESSING CORRECTION OF SCRIVENER’S ERRORS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS,** M3 Westone Developers LLC (“**Petitioner**”) has petitioned the City Commission for the City of Newberry, Florida (“**City**”) to adopt an ordinance establishing the Westone Community Development District (“**District**”) pursuant to Chapter 190, *Florida Statutes,* and granting certain special powers; and

**WHEREAS,** the City, in determining whether to establish the District boundaries, has considered and finds that:

1. All statements contained within the *Petition to Establish the Westone Community Development District* (“**Petition**”) are true and correct;
2. The establishment of the District is not inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan;
3. The area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community;
4. The District is the best alternative available for delivering community development services and facilities to the area that will be served by the District;
5. The community development services and facilities of the District will be compatible with the capacity and uses of existing local and regional community development services and facilities; and
6. The area that will be served by the District is amenable to separate special-district government;

**WHEREAS,** the City has held a public hearing on the Petition in accordance with the requirements and procedures of Sections 190.005(1)(d) and (2)(b), Fla. Stat.; and

**WHEREAS,** the City has considered the record of the public hearing and the factors set forth in Sections 190.005(1)(e) and (2)(c), Fla. Stat.

**NOW THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF NEWBERRY, FLORIDA, THAT:**

**SECTION 1: AUTHORITY.** This ordinance is adopted in compliance with and pursuant to the Uniform Community Development Act of 1980, Chapter 190, *Florida Statutes* (2023).

**SECTION 2: DISTRICT NAME.** There is hereby created a community development district situated entirely within incorporated Newberry, Florida, which District shall be known as the “Westone Community Development District.”

**SECTION 3: EXTERNAL BOUNDARIES OF THE DISTRICT.**  The external boundaries of the District are described in **Exhibit A** attached hereto.

**SECTION 4: FUNCTIONS AND POWERS.**  The powers and functions of the District are described in Chapter 190, *Florida Statutes* (2023), as may be amended from time to time. The Charter of the District shall be as set forth in Chapter 190, *Florida Statutes*, as created by general law. Pursuant to Section 190.012(2)(a) and (2)(d), *Florida Statutes* (2023), and without intending to limit the same, the District’s Board of Supervisors may further exercise certain additional powers to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for (a) parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and (b) security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by applicable governmental agencies; except that the District may not exercise any police power, but may contract with the City for an increased level of such services within the proposed District boundaries, all as authorized and described by Section 190.012(2)(d), *Florida Statutes.*

**SECTION 5: BOARD OF SUPERVISORS.**  The five persons designated to serve as initial members of the District’s Board of Supervisors are David S. McDaniel, Peter McDaniel, Eleanor McDaniel, Caroline McDaniel and John A. Paccione. All of the listed persons are residents of the State of Florida and citizens of the United States of America.

**SECTION 6. CONDITIONS OF APPROVAL.** The City Commission of the City of Newberry, Florida, find the proposed community development district approvable under the following conditions which have been accepted by the owner:

1. The community development district board (“Board”) shall keep a log accounting for all complaints regarding enforcement of deed restrictions by the Board or their designee and shall be made available upon request for inspection by the City Manager or their designee. The log should contain, at minimum, the following information:
   1. Date complaint filed.
   2. Nature of complaint.
   3. Parties subject of the complaint.
   4. Compliance date or last action by the district and the resident or entity.
2. In a year when a Board member seat is eligible for election or reelection, not less than 30 days prior to the general election in November the Board or their designee shall transmit to the City Clerk or their designee a memorandum demonstrating compliance with applicable State of Florida and county supervisor of elections electoral rules and procedures and those requirements enumerated in Florida statute 190, as amended.
3. By April 15 of every year after the creation of the Board and until the dissolution of the Board, the Board or their designee shall transmit to the City Manager or their designee an annual financial report for the past financial year, including, but not limited to: payments collected, assessments created and/or collected, taxes created and/or collected, levies created and/or collected, and expenditures in an itemized manner acceptable to the state. This date may be extended by the City Manager or their designee for a period to not exceed five (5) months provided an acceptable justification is received and deemed an appropriate cause for delay. Failure to comply with this condition shall constitute a violation of this ordinance and may result in civil action by the City including, but not limited to, penalty fees and/or lawsuit.
4. Pursuant to Florida Statute 190.016(15), default on bonds or obligations of a district shall not constitute or obligation of local general-purpose government, in this case, the City of Newberry, Florida, or the state.

**SECTION 7. Scrivener’s Errors.** The correction of typographical and/or scrivener’s errors which do not affect the intent of the Ordinance may be authorized by the City Manager or designee, without public hearing, by filing a corrected or recodified copy of same with the City Clerk.

**SECTION 8. SEVERABILITY.** If any provision of this Ordinance, or the application thereof, is finally determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed to be severable and the remaining provisions shall continue in full force and effect.

**SECTION 9. EFFECTIVE DATE.**  This Ordinance shall take effect upon its passage and adoption at the second and final reading.

**DONE THE FIRST READING**, by the City Commission of the City of Newberry, Florida, at a regular meeting this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 2024.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]**

**DONE, THE PUBLIC NOTICES**, in a newspaper of general circulation in the City of Newberry, Florida, by the Petitioner, commencing the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2024, and running once each week for four consecutive weeks, ending on the \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_, 2024.

**DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE**, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Newberry, Florida, at a regular meeting this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2024.

BY THE MAYOR OF THE CITY OF NEWBERRY, FLORIDA

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Honorable Jordan Marlowe, Mayor

ATTEST, BY THE CLERK OF THE CITY

COMMISSION OF THE CITY OF

NEWBERRY, FLORIDA:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judy S. Rice, City Clerk

APPROVED AS TO FORM AND

LEGALITY:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Attorney’s Office

**EXHIBIT A**

WESTONE COMMUNITY DEVELOPMENT DISTRICT

BOUNDARY MAP

A map of a city

Description automatically generated