

City of Pearland In-City Municipal Utility Districts

Background - Municipal Utility Districts

Municipal utility districts (MUDs or “Districts”) are special purpose governmental entities that are authorized by Texas state law. MUDs have been used for several years as a means to finance water, sewer, and drainage improvements necessary for land to be developed for residential or commercial uses. Most of the master planned communities in the Houston area that most people are familiar with have developed in MUDs outside of the city limits of an incorporated city. In the Pearland area, Southwyck, Silverlake, Southdown, Country Place, and Savannah have been developed in this manner.

MUDs are governed by an elected board and typically have a paid staff of engineering, finance, and legal advisors to operate the affairs of the district. The MUD levies a property tax in an amount sufficient to meet the financial obligations of the district. In normal practice, a developer is required to pay up front the cost of the water, sewer, and drainage improvements necessary to develop a tract. After sufficient taxable value has been certified (after homes and businesses have been built), the MUD board authorizes reimbursement to the developer for eligible expenses in accordance with agreements approved at the beginning of the process. The reimbursements are made either by cash that the MUD has available from its tax collections or from bonds that are issued by the MUD and repaid by future taxes.

Background – Extraterritorial Jurisdiction

Cities in Texas are granted an area outside of their city limits, known as extraterritorial jurisdiction (ETJ), in which the city may exercise certain limited regulations. The ETJ is intended to provide a buffer around a city and provide for the orderly growth of the community through annexation over time. The size of an ETJ varies by the population of the city. When a developer desires to form a MUD within a city’s ETJ, the developer must first seek and be granted permission to create the MUD by the city council. The city council may choose to place conditions on their approval, including the terms under which the MUD can be annexed and dissolved by the City. The Texas Commission on Environmental Quality and the Attorney General’s office are responsible for final approval of MUD creations and oversight of MUDs in Texas.

Historically, most MUDs have developed in cities’ ETJs; these districts are referred to as “ETJ MUDs”. In recent years, state law and development practices have evolved and the practice of creating MUDs inside of a city’s incorporated area has become more common; these districts are referred to as “in-city MUDs”. Residents within in-city MUDs pay a MUD property tax in addition to a city property tax. In-city MUDs were first authorized by the Pearland City Council in 1998. Several subdivisions within Pearland are now within in-city MUDs.

Pearland In-City MUDs

When in-city MUDs were first allowed within Pearland, city leaders had at least four primary goals they were seeking to accomplish. First, much development was occurring outside of the city limits, which created a situation where city services, especially fire,

EMS, and street maintenance, were being impacted without the benefit of the taxes from that new development. The City noticed that lot sales prices in the ETJ MUDs were typically lower than similar lots within the City. This cost differential was based on the fact that a developer could rely on the MUD reimbursement to defray a portion of their costs, whereas in the City they had to recoup their investment solely from the lot sales price. In-city MUDs were a mechanism to “level the playing field” and encourage growth inside the city so that the City could benefit from the additional property tax revenue.

Second, City leaders felt that the additional reimbursement provided through the MUD would provide developers with additional resources that could be invested into additional amenities such as recreation areas, landscaping, and enhanced entry features that would benefit the city and individual citizens.

Third, City leaders believed the increased selection of subdivisions that would be available would be beneficial to current and future residents. With the in-city MUDs, residents would have the choice to select a subdivision that may have more amenities than a typical subdivision, but in exchange they would also be subject to the additional MUD tax. The choice would be theirs to make.

Fourth, City leaders believed that if the combined city tax rate and in-city MUD tax rate were approximately equal to the prevailing ETJ MUD tax rates, the in-city subdivisions would be competitive with the ETJ MUD developments. To keep in-city MUD tax rates as low as possible, the in-city MUDs were required to attach to the City’s water and sewer system. In this way, the districts do not build their own water production and wastewater treatment facilities, as do most ETJ MUDs. If constructed, these facilities would duplicate City facilities and add unnecessary costs that would have to be supported by the in-city MUD tax rates.