

**ORDINANCE NO. 2866**

**AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, CREATING ARTICLE IV (SPECIAL ASSESSMENT) AUTHORIZING THE IMPOSITION AND LEVY OF SPECIAL ASSESSMENTS FOR ADMINISTRATIVE COSTS INCURRED BY THE CITY AND NOT REIMBURSED BY THE PROPERTY OWNER; REQUIRING NOTICES OF ASSESSMENT; ESTABLISHING THE CITY AS A SPECIAL ASSESSMENT DISTRICT; AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS IN CONNECTION WITH THE CITY REMEDYING CODE VIOLATIONS; PROVIDING FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS; AUTHORIZING AN AGREEMENT WITH THE VOLUSIA COUNTY PROPERTY APPRAISER AND THE VOLUSIA COUNTY TAX COLLECTOR; AUTHORIZING AND REQUIRING THE ADOPTION OF A RESOLUTION REGARDING THE CITY'S USE OF THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS; PROVIDING FOR ANNUAL NON-AD VALOREM ASSESSMENT ROLLS; PROVIDING TRANSITION PROVISIONS AND RATIFYING ASSESSMENTS TO RECOVER COSTS INCURRED BY THE CITY TO REMEDY VIOLATIONS PRIOR TO THE ORDINANCE'S ENACTMENT; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City has expended and will continue to expend public funds to remedy code violations that exist on property in the City. The code violations that are remedied by the City range from mowing high grass and weeds to demolishing a dangerous structure. Although the City has the right to lien the property for the costs incurred by the City, the vast majority of these liens are unpaid; and

**WHEREAS**, the cost of correcting code violations should not be the responsibility of the taxpayers of the City and therefore the City should use all legal means to seek reimbursement; and

**WHEREAS**, these real properties that the City remedy the code violations on receive a special benefit from the City's expenditure of the public fund, and this benefit is unique to these particular properties; and

**WHEREAS**, the City has the authority to use the uniform method for the levy, collection, and enforcement of non-ad valorem assessments as set forth in Chapter 197 Florida Statutes; and

**WHEREAS**, if not timely paid, the non-ad valorem assessment for the abatement of the public nuisance will be included on the property owner's annual tax bill, to be paid at the same time that yearly ad-valorem taxes are paid; and

**WHEREAS**, if the non-ad valorem assessment is not paid timely, a lien may also be recorded against the property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:**

**SECTION 1.** The City Commission of the City of Holly Hill hereby creates Article IV (Special Assessment) to read as follows:

**Section 30-80. Notice of assessment.**

Upon completion of the actions undertaken by the City to remedy the violation on the property, the City Manager, or his/her designee, shall notify the owner in writing that a special assessment has been imposed on the property. The notice shall be delivered to the owner in the manner set forth for delivery of the notice of remedy in subsection (f) "Enforcement", the notice of assessment shall set forth the following:

- 1) A description of the violation, a description of the actions taken by the City to remedy the violation, and the fact that the property has been assessed for the costs incurred by the City to remedy the violation.
- 2) The aggregate amount of such costs and an itemized list of such costs.
- 3) The intent of the City to record the assessment as a lien against the property if not paid timely, within the period of thirty (30) days as set forth herein.
- 4) The intent of the City to place the assessment on the tax roll as a non-ad valorem assessment if not paid by the following December 1.
- 5) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at a rate as high as 18% per annum, if the non-ad valorem assessment is not paid as part of the tax bill on the property.
- 6) The potential for the property to be sold and conveyed by tax deed if the tax certificate is redeemed by payment of the non-ad valorem assessment in full, plus interest, as required by Florida law.

**Section 30-81 Assessments for Public Nuisances.**

a) **Establishment of Special Assessment District.** The City of Holly Hill in its entirety, as its City boundaries exist on the date of enactment of this section and as they may be expanded or contracted from time to time, is hereby declared a special-assessment district for the purposes of abating and remedying violation as provided under City regulations. Individual properties within the City's boundaries, as they may exist from time to time, may be assessed for the costs incurred by the City in abating and remedying violations as provided under City regulations.

b) **Levy of non-ad valorem assessments.** There is hereby levied, and the City Commission is authorized to levy from time to time, a non-ad valorem assessment against each and every property in the City: i) on which there occurs or has occurred a City code violation exists; ii) on which the City undertakes or has undertaken action pursuant to City regulations to abate and/or remedy the violation and, thereby, incurs or has incurred costs; and iii) the owner of the property fails or refuses, or has failed or refused, for whatever reason, to pay timely the amount owed to the City for the costs incurred by the City in carrying out such abatement and remedy.

c) **Collection of non-ad valorem assessments.** The City Commission elects to use the uniform method to impose and collect non-ad valorem assessments against properties on which violations of City codes have occurred, the City incurs or has incurred costs to abate and/or remedy the violation and the property owner has failed to reimburse the City. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice for ad-valorem taxes and non-ad valorem assessments as provided in Section 197.3635, Florida Statutes. Non-ad valorem assessments collected pursuant to this section are subject to all collection provisions in Section 197.3632, Florida Statutes, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

**Section 30-82. Procedure For Utilizing Special Assessments.**

a) **Agreement to reimburse the Volusia County Property Appraiser and the Volusia County Tax Collector.** In order to use the uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the City is authorized to enter into a written agreement with the Volusia County Property Appraiser and the Volusia County Tax Collector providing for the reimbursement of their costs incurred in the administration and collection of the non-ad valorem assessments levied under this section.

b) **Adoption of a resolution.** The City will comply with all statutory notice prerequisites set forth in Section 197.3632, Florida Statutes. The City Commission will adopt a resolution at a public hearing prior to January 1, 2011 in accordance with Subsection 197.3632(3), Florida Statutes, which resolution shall state the following:

(1) The City's intent to use the uniform method of collecting non-ad valorem assessments.

(2) The City's need for the imposition of the non-ad valorem assessments.

(3) The entire City is declared a special-assessment district, with individual properties being subject to the non-ad valorem assessment from time to time if and when code violations are remedied and/or abated by the City.

(c) **Annual non-ad valorem assessment roll.** Each year, the City Commission will approve a non-ad valorem assessment roll at a public hearing between January 1 and September 15. The non-ad valorem assessment roll will be comprised of properties that have had levied against them non-ad valorem assessments under this section, and such assessments have not otherwise been paid in full prior to approval on the roll.

(1) The City Manager, or his/her designee, is authorized and directed each year to prepare the notice that must be sent by first-class United States mail, as required by Subsection 197.3632(4)(b), Florida Statutes

(2) The notice to be sent by first-class United States mail will be sent to each person owning property that will be on the non-ad valorem assessment roll and will include the following:

(A) The purpose of the assessment;

(B) The total amount to be levied against the parcel, which includes the actual cost incurred by the City.

(C) A statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title.

(D) A statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice.

(E) The date, time, and place of the hearing.

(3) Upon its approval by City Commission, the non-ad valorem assessment roll will be certified to the tax collector as required by law.

**Section 30-83. Transition Period.**

Non-ad valorem assessments to recover the actual costs incurred by the City in remedying violations as allowed pursuant to the Code of Ordinances prior to the effective date of the actions required in Section 30-82 may be levied against the affected properties and, if not timely paid in full, may be placed on a non-ad valorem assessment roll at the next available opportunity. All actions taken by City officials and employees to that end are ratified and confirmed herewith.

**SECTION 2.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

**SECTION 3.** That all ordinances made in conflict with this Ordinance are hereby repealed.

**SECTION 4.** That this Ordinance shall become effective immediately upon its adoption.

**SECTION 5.** That this Ordinance shall be posted at City Hall as required by law.

The within and foregoing Ordinance was introduced and read on first reading before the City Commission of the City of Holly Hill, Florida, at its regularly scheduled meeting held in Commission Chambers at City Hall on the 13<sup>th</sup> day of April, 2010.

It was moved by Commissioner Penny and seconded by Commissioner Towsley that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

**ROLL CALL VOTE AS FOLLOWS: (Ordinance 2866):**

Mayor Roland D. Via        Yes

Commissioner John Penny    Yes

Commissioner Rick Glass    Yes

Commissioner Mark Reed    Yes

Commissioner Liz Towsley   Yes

**ADOPTED THIS 13<sup>th</sup> DAY OF April, 2010.**

The within and foregoing Ordinance was introduced and read on second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 27<sup>th</sup> day of April, 2010.

It was moved by Commissioner Penny and seconded by Commissioner Towsley that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

**ROLL CALL VOTE AS FOLLOWS: (Ordinance 2866):**

Mayor Roland D. Via        Yes

Commissioner John Penny    Yes

Commissioner Rick Glass    Yes

Commissioner Mark Reed    Yes

Commissioner Liz Towsley   Yes

**ADOPTED THIS 27<sup>th</sup> DAY OF April, 2010.**

Whereupon, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the official seal of said City to be affixed, all at City Hall in the City of Holly Hill, this 27<sup>th</sup> day of April, 2010 for the purpose of authenticity as is required by law.

City of Holly Hill, Florida



Roland D. Via, Mayor



Oel Wingo, Ph.D., City Manager

Attest:



Joshua Fruecht, City Clerk