

**ORDINANCE NO. 2867**

**AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING SECTION 54-9 (COLLECTION AND DISPOSAL SERVICE FEE) TO ESTABLISH THE CITY AS A SPECIAL ASSESSMENT DISTRICT FOR THE BASE, SINGLE-FAMILY RESIDENTIAL SANITATION COLLECTION FEE; AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS FOR THE BASE RESIDENTIAL SANITATION COLLECTION FEE; 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 TRANSITION PROVISIONS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Holly Hill has determined that it is in the City's best interest to levy a special assessment on all developed, single-family residential homes in the City for the base residential rate for sanitation collection service instead of billing this amount on a monthly basis; and

**WHEREAS**, the collection of a non-ad valorem special assessment is permitted pursuant to Florida Statute Section 197.3632; and

**WHEREAS**, the existing City regulations need to be amended to allow for the collection of this sanitation collection fee by special assessment; and

**WHEREAS**, words which are underlined (underlined) are additions to the text and words with strike through (~~strike through~~) the characters are deletions from the text.

**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 amends Section 54-9 (Collection and Disposal Service Fee) to read as follow:

Sec. 54-9. Collection and disposal service fee.

(a) *Service fee.* The service fee to be charged for collection and disposal of solid waste shall be determined by resolution of the city commission. The city commission shall review the adequacy of such fees not less frequently than once per year and shall establish fees which are adequate to cover all capital expenditures and operating expenses required for the collection and disposal of solid wastes by the city.

(b) *Persons liable.*

(1) All developed single-family residential properties shall be levied the special assessment provided for herein even if the property is not occupied. Vacant single-family properties still generate garbage, rubbish and yard waste because these properties have yard maintenance that occurs.

~~(1)~~ (2) The fact that any place of abode or any place of business is occupied shall be prima facie evidence that garbage, rubbish or yard waste is being produced and accumulated upon such premises and that fees for the collection and disposal thereof are due the city.

~~(2)~~ (3) In case of all buildings situated in all areas of the city, it shall be the responsibility and liability of the owner thereof to pay the proper service fee. A commercial establishment in the

same building with a residential unit or with another commercial establishment, even though under the same ownership, shall not be considered a part of such residential unit or other commercial establishment but shall be treated as a separate commercial establishment upon which a separate waste fee shall be due. The operator of a principal business on a premise shall be considered as the operator of any leased department conducted as a part of or along with the principal business for the purpose of fixing responsibility of paying the necessary service fee and furnishing the necessary garbage containers. Stores, etc., should paint their names and street numbers on their containers to prevent theft and use by others.

(c) *Responsibility for payment.* The service fee required and imposed hereby is the sole responsibility of the owner, lessor or operator of the building, and nothing contained in this chapter is to be construed or interpreted so as to impose the responsibility and liability for the payment of the same upon the residential tenant or occupant of any motel or apartment house.

(d) 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 collecting the base sanitation collection fee for a developed single-family residence. It is the intent of the City that this non-ad valorem assessment be levied the first time for the 2011-2012 fiscal year and every fiscal year thereafter.

(e) Levy of non-ad valorem assessments. There is hereby levied a non-ad valorem assessment against each and every developed single-family residential property in the City a base sanitation collection fee as established by resolution adopted by the City Commission.

(f) Collection of non-ad valorem assessments. The City Commission elects to use the uniform method to impose and collect non-ad valorem assessments. 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.

(g) 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.

(h) Adoption of a resolution. The City will comply with all statutory notice prerequisites set forth in Section 197.3632, Florida Statutes. The City Council 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 developed, single-family residential properties being subject to the special assessment.

(i) Transition. The City shall continue to levy the base monthly sanitation collection fee for developed, single-family residential homes through the month of September 2011 for the 2010/2011 fiscal year. Commencing in October 2011 for the 2011/2012 fiscal year, and each fiscal year thereafter, the City shall stop the monthly collection of base sanitation collection fees for developed, single-family residential homes and shall collect said base sanitation collection fee by the special assessment.

(j) Sanitation service fees for non-single family residences. For all sanitation service other than the base single family residential service collected by special assessment, the City shall continue to levy and collect the monthly service fee as established by the City Commission by resolution. All such sanitation collection fees due the city shall be included in the city utility bill which is rendered monthly. No discount shall be allowed for prompt payment thereof. If any bill shall not be paid before the 20th day following the original date of billing, a charge equal to 15 percent of the amount

of the monthly service charge shall be added thereto. If any bill shall not be paid within 30 days of the original date of billing, all utility services shall be discontinued to the premises.

(~~e~~) (k) *Special assessment liens.* All charges levied by this chapter shall constitute and are hereby imposed as special assessment liens against the real property aforesaid and, until fully paid and discharged, shall remain liens equal in rank and dignity with the city ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such special assessment liens for service charges shall be enforced by any of the methods provided in F.S. ch. 86, or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of F.S. ch. 173, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law.

(~~f~~) (l) *Waiver of fees.* The city commission is hereby authorized to waive the collection of garbage fees from customers of the city upon the city commission determination, based upon the report of the city finance director, that such waiver shall not affect the financial integrity of the general fund of the city.

**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 Glass and seconded by Commissioner Penny 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 2867):**

Mayor Roland D. Via            Yes

Commissioner John Penny    Yes

Commissioner Rick Glass    Yes

Commissioner Mark Reed    Yes

Commissioner Liz Towsley   No

**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 Reed 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 2867):**

Mayor Roland D. Via        Yes

Commissioner John Penny    Yes

Commissioner Rick Glass    No

Commissioner Mark Reed    Yes

Commissioner Liz Towsley   No

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

Ordinance 2867  
April 13, 2010  
April 27, 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