

ORDINANCE NO. 0-2013-06

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 38 OF THE CODE OF ORDINANCES ENTITLED "FINANCE" BY CREATING SECTION 38.04 ENTITLED "NUISANCE ABATEMENT SPECIAL ASSESSMENT PROCESS"; AMENDING SECTION 90.05 ENTITLED "PUBLIC NUISANCES"; AMENDING SECTION 101.05 ENTITLED "WEEDS AND GRASS"; SECTION 158.06 ENTITLED "CITY SERVICES PROVIDED" RELATING TO SWIMMING POOLS; AND SECTION 151.201 ENTITLED "CHARGES IF DEMOLITION PERFORMED BY CITY; LIEN"; TO AUTHORIZE THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS FOR THE RECOVERY OF COSTS FOR THE ABATEMENT OF ABANDONED PERSONAL AND REAL PROPERTY, LOT MOWING AND DEBRIS REMOVAL SERVICES, SWIMMING POOL SERVICES, DEMOLITION AND SECURING SERVICES THAT HAVE BEEN PROVIDED BY THE CITY.

WHEREAS, the City Commission of the City of Hollywood desires to protect the public health, safety and welfare of the citizens and businesses of the City; and

WHEREAS, foreclosed and abandoned properties in the City have led to an increase in code violations, including but not limited to open and unsecure properties, excessive overgrowth, trash, rubbish, debris, derelict vehicles and abandoned swimming pools; and

WHEREAS, the City of Hollywood from time-to-time performs property maintenance and nuisance abatement activities on private property, which activities provide a special benefit to the properties on which such activities occur; and

WHEREAS, the City Commission finds that the aforementioned code violations constitute a public nuisance in the City in accordance with Section 10.99 of the Code of Ordinances; and

WHEREAS, the City has adopted various ordinances that address the abatement of such nuisances and the City has the right to record and enforce liens in the event an owner of property fails or refuses to pay the full amount incurred by the City in abating a nuisance on his or her property; and

(Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions.)

WHEREAS, it is not fair or equitable for the citizens of Hollywood to pay taxes to fund City activities providing a special benefit to private properties without a requirement that such payments be reimbursed to the general fund; and

WHEREAS, the various appellate courts of the State of Florida have upheld diverse special assessment programs when the requisite special benefit is provided to real property; 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 City's costs for abatement of a nuisance will be included on the property owner's tax bill as a non-ad valorem assessment, to be paid at the same time as annual ad valorem taxes are paid; and

WHEREAS, the City has a vested interest in protecting its citizens and businesses against the decay caused by unmaintained, vacant and abandoned properties and concludes that it is in the best interest of such citizens and businesses to establish a new collection process; and

WHEREAS, the City Commission finds that the health, safety and general welfare of the City will be protected and improved by adopting this ordinance to provide for the recovery of costs for the abatement of such public nuisances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby incorporated herein and made a part hereof.

Section 2: That Chapter 38 of the Code of Ordinances entitled "Finance" is hereby amended by creating Section 38.04 as follows:

TITLE III: ADMINISTRATION

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CHAPTER 38. FINANCE

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§ 38.04 Nuisance Abatement Special Assessment Process for costs relating to activities by the City to abate nuisances on real property.

(A) Establishment of a Special Assessment District. The City of Hollywood in its entirety, as its City boundaries exist as of the enactment date of this ordinance and as they may be expanded or contracted from time to time, is hereby declared and established as a special assessment district for the purposes of abating nuisances prohibited under the City's Code of Ordinances. The establishment of the special assessment district is to provide that special assessments may be assessed against real property that is maintained by the City under the provisions of the codes and ordinances of the City if the owner of real property fails to maintain real property as required by the applicable codes and ordinances. Such activities for which the assessments relate include, but are not limited to, abandoned real or personal property, lot mowing and debris removal, swimming pool services, securing and demolition (such activities shall be deemed a public nuisance).

(B) Levy of non-ad valorem assessments. There is hereby levied, and the City Commission is hereby authorized to levy from time to time, a non-ad valorem assessment against each and every property in the City where (i) the owner has failed to maintain the real property as required by the applicable code of ordinances, and (ii) the City undertakes action pursuant to the applicable code of ordinances to abate the nuisance and, thereby, incurs costs, and (iii) the property owner fails or refuses, for whatever reason, to pay in a timely manner the amount owed to the City in accordance with Chapters 50, 90, 101, 151 or 158 of the Code of Ordinances for carrying out such abatement (hereinafter "non-ad valorem assessments"). Such assessments shall be in accordance with Chapter 197, Florida Statutes. For purposes of this Section, incurred costs shall encompass, in addition to the abatement cost of the nuisance, all administrative, legal, postal and publication expenses, as well as all other direct or indirect costs associated therewith.

(C) The assessment for the abatement of a nuisance shall constitute a lien upon the Tax Parcels so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien for the nuisance abatement assessment shall be deemed perfected upon adoption by the City Commission of its annual resolution and shall attach to the property included on the assessment roll as of January 1 of the year in which the nuisance abatement non-ad valorem assessment will be imposed on the tax bill, which is the lien date for ad valorem taxes.

(D) 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 nuisances occur. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice of 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 provision relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance of sale of tax certificates and

tax deeds for nonpayment.

(E) Notwithstanding provision (D) above, the City reserves its rights to proceed with an action to foreclose the applicable lien or collect the lien by other applicable collection methods permitted by law, and to hold the owner of the property liable for the cost incurred by the City to abate/correct the violation.

(F) Adoption by Resolution. The City Commission shall adopt a notice of intent resolution at a public hearing prior to January 1st, or if agreed to by the property appraiser, tax collector and the City by March 1st, in accordance with Sections 197.3632(3)(a) and 197.3632(9), Florida Statutes. The resolution shall provide for, but not be limited to, 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) That 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 violations relating to such nuisances have occurred and have been abated by the City;
- (4) Publication of the City's notice of intent to use the uniform method for collecting the non-ad valorem assessments weekly in a newspaper of general circulation within Broward County for four (4) consecutive weeks preceding the hearing;
- (5) Mailing of the adopted resolution by January 10, or March 10, if agreed to by the property appraiser, tax collector and the City.

(G) Annual non-ad valorem tax roll. Each year, the City Commission will approve a non-ad valorem tax roll at a public hearing held between January 1 and September 15th. The non-ad valorem assessment roll will be comprised of properties that have had levied against them non-ad valorem assessments pursuant to this section and the applicable code of ordinances, and such assessments have not otherwise been paid in full prior to approval of the roll. The Finance Director is authorized and directed each year to (i) prepare the notice that must be provided by Section 197.3632(4), Florida Statutes, and (ii) prepare and publish the newspaper notice required by Section 197.3632, Florida Statutes. The notice shall be sent by first class mail to each person owning property that will be on the non-ad valorem assessment roll and will comply with Section 197.3632(7), Florida Statutes.

Section 3: That Chapter 90 of the Hollywood Code of Ordinances entitled "Nuisances" is hereby amended to create Section 90.05 entitled "Public Nuisance" as follows:

TITLE IX: GENERAL REGULATIONS

CHAPTER 90. ABANDONED REAL AND PERSONAL PROPERTY

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§ 90.05 **Public nuisance.**

All abandoned personal property and abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the City. Any and all abatement actions performed by the City or a private contractor hired by the City may cause a special assessment and lien for the total costs thereof to be placed on the property and shall be collected in accordance with Section 38.04 of the Code of Ordinance. For purposes of this Section, incurred costs shall encompass, in addition to the abatement cost of the nuisance, all administrative, legal, postal and publication expenses, as well as all other direct or indirect costs associated therewith. All such unpaid charges shall bear interest after 20 days at the rate provided in § 55.03(1), Florida Statutes for interest on judgments. In addition to any other notice requirements set forth in this Chapter, written notice of the assessment shall be given to the property owner, and if applicable, the agent, custodian, lessee or occupant as set forth in Section 38.04(G) of the Code of Ordinances and Section 197.3632, Florida Statutes. Said notice shall be by certified mail, return receipt requested and shall set forth the following:

- (a) A description of the violation, a description of the action taken by the City to abate the nuisance, and the fact that the property has been assessed for the costs incurred by the City in abating the nuisance; and
- (b) The aggregate amount of such costs and an itemized list of such costs; and
- (c) 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 August 1; and
- (d) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at the 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; and
- (e) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment, in full, plus interest,

Section 4: That Section 101.05 of the Code of Ordinances entitled "Weeds and Grass" is hereby amended as follows:

TITLE IX: GENERAL REGULATIONS

CHAPTER 101. NUISANCES

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§101.05 WEEDS AND GRASS.

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(E) (1) In the event any person required by the terms of this section to remove rubbish, garbage or garden trash and/or cut down and remove weeds, grass or undergrowth shall fail to do the same, the city may cause such cutting and/or removal to be done and shall forthwith charge the cost of such services to that person. Such actions by the City shall be deemed as abating a nuisance in accordance with subsection (F) below, and falls within Section 38.04 of the Code of Ordinances. There shall be an administrative charge of \$100 for each service which the city is required to perform.

(A) (2) Charges for such cutting and/or removal along with any administrative or interest charge shall be a lien upon such real property; and whenever a bill for such charges remains unpaid for 20 days after it has been rendered, the Finance Director shall file with the Clerk of the Circuit Court for Broward County, a claim of lien statement. This claim of lien statement shall contain a legal description of the premises, the expenses and costs incurred, the date of such expenses, and a notice that the city claims a lien for this amount. For purposes of this Section, incurred costs shall encompass, in addition to the abatement cost of the nuisance, all administrative, legal, postal and publication expenses, as well as all other direct or indirect costs associated therewith. All such unpaid charges shall bear interest after 20 days at the rate provided in ~~for in~~ § 55.03(1), Florida Statutes for interest on judgments. The claim of lien statement shall further provide notice that interest on the unpaid charge shall accrue at the rate provided for in § 55.03(1), Florida Statutes for interest on judgments. A copy of the claim of lien shall be mailed to the owner of the property, if his/her address is available. The city may pursue all legal means available to collect those liens, including but not limited to imposing a special assessment and collecting such in accordance with Section 38.04 of the Code of Ordinances. The costs incurred for collection, including legal fees, shall be recovered along with all amounts due the city under the lien. Written notice of the assessment shall be given to the property owner, and if applicable, the agent, custodian, lessee or occupant. Said notice shall be by certified mail, return receipt requested and shall set forth the following:

- (a) A description of the violation, a description of the action taken by the City to abate the nuisance, and the fact that the property has been assessed for the costs incurred by the City in abating the nuisance; and
- (b) The aggregate amount of such costs and an itemized list of such costs; and

- (c) 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 August 1; and
- (d) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at the 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; and
- (e) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment, in full, plus interest, as required by Florida law.

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Section 5: That Section 151.201 of the Code of Ordinances entitled "Charges if Demolition Performed by the City" is hereby amended as follows:

TITLE XV: LAND USAGE

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CHAPTER 151. BUILDINGS

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§ 151.201 CHARGES IF DEMOLITION PERFORMED BY CITY; LIEN.

Charges for the necessary action to secure the building or demolition of the building or structure and the removal of the salvage, contents, debris and abandoned property from the premises shall be a lien upon such property, which shall accrue interest at the rate of 8% per year; and whenever a bill for such charges remains unpaid for 20 days after it has been rendered, the Finance Director shall file with the Clerk of the eCircuit eCourt for Broward County, Florida, a claim of lien statement. This claim of lien statement shall contain a legal description of the premises, the expenses and costs incurred, the date of such expenses and a notice that the city claims a lien for this amount.; ~~as well as interest on the unpaid amount at the rate of 8% per year. All such unpaid charges shall bear interest after 20 days at the rate provided in §55.03(1), Florida Statutes for interest on judgments.~~ For purposes of this Section, incurred costs shall encompass, in addition to the abatement cost of the nuisance, all administrative, legal, postal and publication expenses, as well as all other direct or indirect costs associated therewith. A copy of said claim of lien shall be mailed to owner of the property, if his/her address is available. The city may pursue all legal means available to collect those liens, including but not limited to imposing a special assessment in accordance with Section 115.11 of the Florida Building Code and in accordance with Section 38.04 of the Code of Ordinances. . Written notice of the assessment shall be

given to the property owner, and if applicable, the agent, custodian, lessee or occupant. Said notice shall be by certified mail, return receipt requested and shall set forth the following:

- (a) A description of the violation, a description of the action taken by the City to abate the nuisance, and the fact that the property has been assessed for the costs incurred by the City in abating the nuisance; and
- (b) The aggregate amount of such costs and an itemized list of such costs; and
- (c) 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; and
- (d) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at the 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; and
- (e) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment, in full, plus interest, as required by Florida law.

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Section 6: That Section 158.06 of the Code of Ordinances entitled "City Services Provided" is hereby amended as follows:

TITLE XV: LAND USAGE

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CHAPTER 158. SWIMMING POOLS

Private Pools

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§ 158.06 CITY SERVICES PROVIDED.

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(E) (1) In the event any person required by the terms of this section to keep a private swimming pool in a clean and sanitary condition shall fail to do the same, the city may cause such cleaning and sanitation, including without limitation, draining or removal of water, and shall forthwith charge the cost of such services to that person. Such actions by the City shall be deemed as abating a nuisance in accordance with subsection (F)

below, and falls within Section 38.04 of the Code of Ordinances. There shall also be an administrative charge of \$100 for each service which the city is required to perform.

(2) Charges for such draining, cleaning and sanitization, along with any administrative or interest charge, shall be a lien upon such real property; and whenever a bill for such charges remain unpaid for 20 days after it is rendered, the Finance Director shall file with the Clerk of the Circuit Court for Broward County, a claim of lien statement. This claim of lien statement shall contain a legal description of the premises, the expenses and costs incurred, the date of service, and a notice that the city claims a lien for this amount. For purposes of this Section, incurred costs shall encompass, in addition to the abatement cost of the nuisance, all administrative, legal, postal and publication expenses, as well as all other direct or indirect costs associated therewith. All such unpaid charges shall bear interest after 20 days at the rate provided in F.S. §55.03(1), for interest on judgments. The claim of lien statement shall further provide notice that interest on the unpaid charges shall accrue at the rate provided in F.S. §55.03(1), for interest on judgments. A copy of the claim of lien shall be mailed to the owner of the property. The city may pursue all legal means available to collect those liens, including but not limited to imposing a special assessment and collecting such in accordance with Section 38.04 of the Code of Ordinances. The costs incurred for collection, including legal fees, shall be recovered along with all amounts due the city under the lien. Written notice of the assessment shall be given to the property owner, and if applicable, the agent, custodian, lessee or occupant. Said notice shall be by certified mail, return receipt requested and shall set forth the following:

- (a) A description of the violation, a description of the action taken by the City to abate the nuisance, and the fact that the property has been assessed for the costs incurred by the City in abating the nuisance; and
- (b) The aggregate amount of such costs and an itemized list of such costs; and
- (c) 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; and
- (d) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at the 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; and
- (e) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment, in full, plus interest, as required by Florida law.

ORDINANCE CREATING NUISANCE ABATEMENT SPECIAL ASSESSMENT/NON-AD VALOREM PROCESS.

Section 7: That, it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 8: That, if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 9: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 10: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

ADVERTISED on Feb 8, 2013.

PASSED on first reading this 6 day of Feb, 2013.

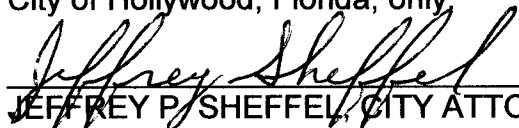
PASSED AND ADOPTED on second reading this 20 day of Feb, 2013.

ATTEST:


PATRICIA A. CERNY, MMC, CITY CLERK


PETER BOBER, MAYOR

APPROVED AS TO FORM & LEGALITY
For the use and reliance of the
City of Hollywood, Florida, only


JEFFREY P. SHEFFEL, CITY ATTORNEY