

ORDINANCE NO O-2009-19

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, RELATING TO THE PROVISION OF FIRE INSPECTION SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF HOLLYWOOD, FLORIDA, AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE INSPECTION ASSESSMENTS AGAINST PROPERTY THROUGHOUT THE CITY OF HOLLYWOOD; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE INSPECTION ASSESSMENT"; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE INSPECTION ASSESSMENTS, PROVIDING THAT FIRE INSPECTION ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL, PROVIDING THAT THE LIEN FOR A FIRE INSPECTION ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197 3632 AND 197 3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES, PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS, AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING A PROCEDURE FOR THE COLLECTION OF FIRE INSPECTION ASSESSMENTS, PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

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

**ARTICLE I****INTRODUCTION**

**SECTION 1.01 DEFINITIONS.** As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

**"Annual Rate Resolution"** means the resolution described in Section 2.08 hereof, establishing the rate at which a Fire Inspection Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Inspection Assessment is imposed or reimposed.

**"Assessed Property"** means all parcels of land within the City included on the Assessment Roll that receive a special benefit from the delivery of the fire inspection services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

**"Assessment Roll"** means the special assessment roll relating to a Fire Inspection Assessment approved by a Final Assessment Resolution pursuant to Section 2.06 hereof or an Annual Rate Resolution pursuant to Section 2.08 hereof

**"Building"** means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind.

**"Certificate of Occupancy"** means the written certification issued by the City that a Building is ready for occupancy for its intended use. For the purposes of this Ordinance, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a Certificate of Occupancy

**"City"** means the City of Hollywood, Florida.

**"City Clerk"** means the official described in Section 32.01 of the City Code.

**"City Commission"** means the governing body of the City of Hollywood, Florida.

**"City Manager"** means the administrative head of the City, as defined in Article VI of the City Charter, or such person's designee

**"County"** means Broward County, Florida.

**"Final Assessment Resolution"** means the resolution described in Section 2.06 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Inspection Assessments.

**"Fire Inspection Assessment"** means a special assessment lawfully imposed by the City Commission against Assessed Property to fund all or any portion of the cost of the provision of fire inspection services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property

**"Fire Inspection Assessed Cost"** means the amount determined by the City Commission to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire inspection services, facilities, or programs which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (G) the cost of any indemnity or surety bonds and premiums for insurance, (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the cost of compliance with any contracts or agreements entered into by the City to provide fire inspection services; (M) all costs associated with the structure, implementation, collection, and enforcement of the Fire Inspection Assessments, including any service charges of the Tax Collector, or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Inspection Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Inspection Assessments collected pursuant to Section 3 02 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire inspection services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the City Commission by subsequent resolution, (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Inspection Assessments; and (P) reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing components of Fire Inspection Assessed Cost. In the event the City also imposes an impact fee or a special assessment for fire rescue related improvements, services, and programs, the Fire Inspection Assessed Cost shall not include any costs recovered through either the impact fee or other fire rescue special assessment program.

**"Fiscal Year"** means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City

**"Government Property"** means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

**"Initial Assessment Resolution"** means the resolution described in Section 2.02 hereof which shall be the initial proceeding for the identification of the Fire Inspection Assessed Cost for which an assessment is to be made and for the imposition of a Fire Inspection Assessment.

**"Ordinance"** means this Fire Inspection Assessment Ordinance

**"Owner"** shall mean the Person reflected as the owner of Assessed Property on the Tax Roll

**"Person"** means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require

**"Preliminary Rate Resolution"** means the resolution described in Section 2.08 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Inspection Assessments pursuant to an Annual Rate Resolution.

**"Property Appraiser"** means the Broward County Property Appraiser

**"Tax Collector"** means the Department of Finance and Administrative Services as described in Article III of the Broward County Charter

**"Tax Roll"** means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes

**"Uniform Assessment Collection Act"** means sections 197 3632 and 197 3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder

**SECTION 1.02. INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance, and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**SECTION 1.03. GENERAL FINDINGS.** It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, sections 166 021 and 166 041, Florida Statutes, and the City Charter of the City of Hollywood, Florida, the City Commission has all powers of local self government necessary to perform municipal functions and to render municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of City ordinances.

(B) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and

the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of section 166 021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of section 166 021(3), Florida Statutes, are not relevant to the imposition of assessments related to fire inspection services, facilities or programs of the City

(C) Annual fire inspections are mandated under the Broward County Local Amendments to the Florida Fire Prevention Code, Paragraph F-3 5 and § 94 172 of the City of Hollywood's Code of Ordinances. In accordance with § 94 172 of the Hollywood City Code, all non-residential property and multi-family residential property with three dwelling units or more must be inspected at least annually by the City to ascertain any conditions which pose fire hazards and threats or otherwise obstruct or interfere with the Fire Department's operations

(D) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of citywide Fire Inspection Assessments under the general home rule powers of a municipality to impose special assessments; (2) authorize a procedure for the funding of fire inspection services, facilities, or programs providing special benefits to property within the City; and (3) legislatively determine the special benefit provided to Assessed Property from the provision of the City's fire inspection services.

(E) The annual Fire Inspection Assessments, to be imposed using the procedures provided in this Ordinance, shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(F) The Fire Inspection Assessments to be imposed using the procedures provided in this Ordinance are imposed by the City Commission, not the Broward County Board of County Commissioners, the Property Appraiser or the Tax Collector. The duties of the Property Appraiser and Tax Collector under the provisions of this Ordinance and the Uniform Assessment Collection Act are ministerial

**SECTION 1.04. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT** It is hereby ascertained and declared that the fire inspection services, facilities, and programs of the City provide a special benefit to property with the City because fire inspection services possess a logical relationship to the use and enjoyment of improved property by: (1) ascertaining and causing the correction of any conditions or obstructions that pose fire hazards and threats, including but not limited to combustible or explosive matters, dangerous accumulations of materials, any other flammable materials which are situated to endanger property or interfere with the operation of the Fire Department or property ingress and egress; (2) ensuring the presence and functionality of properly installed on-site fire suppression systems to protect the value and integrity of the improvements and structures; (3) protecting the life and safety of intended occupants in the use and enjoyment of property by inspecting for the presence of any fire hazards or defects; and (4) lowering or maintaining the cost of fire insurance by the presence of a professional and comprehensive fire inspection program within the City

## **ARTICLE II**

### **ANNUAL FIRE INSPECTION ASSESSMENTS**

#### **SECTION 2.01 GENERAL AUTHORITY**

(A) The City Commission is hereby authorized to impose an annual Fire Inspection Assessment to fund all or any portion of the Fire Inspection Assessed Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of fire inspection services, facilities, or programs. All Fire Inspection Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the Fire Inspection Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Fire Inspection Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire inspection services, facilities, or programs funded with assessment proceeds.

(C) Nothing contained in this Ordinance shall be construed to require the imposition of Fire Inspection Assessments against Government Property

**SECTION 2.02. INITIAL PROCEEDINGS.** The initial proceeding for the imposition of a Fire Inspection Assessment shall be the adoption of an Initial Assessment Resolution by the City Commission, (1) containing a brief and general description of the fire inspection services, facilities, or programs to be provided, (2) determining the Fire Inspection Assessed Cost to be assessed, (3) describing the method of apportioning the Fire Inspection Assessed Cost and the computation of the Fire Inspection Assessment for specific properties, (4) establishing estimated assessment rates for the applicable Fiscal Year, and (5) directing the City Manager to (a) prepare the initial Assessment Roll, as required by Section 2.03 hereof, (b) publish the notice required by Section 2.04 hereof, and (c) mail or cause to be mailed the notice required by Section 2.05 hereof using information then available from the Tax Roll

#### **SECTION 2.03. INITIAL ASSESSMENT ROLL.**

(A) The City Manager shall prepare, or direct the preparation of, the initial Assessment Roll, which shall contain the following:

(1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll

(2) The name of the Owner of the Assessed Property

(3) The amount of the Fire Inspection Assessment to be imposed against each such parcel of Assessed Property

(B) The initial Assessment Roll shall be retained by the City Manager and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Fire Inspection Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

#### **SECTION 2.04. NOTICE BY PUBLICATION.**

(A) Upon completion of the initial Assessment Roll, the City Manager shall publish, or direct the publication of, once in a newspaper of general circulation within the City a notice stating that at a meeting of the City Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the City Commission will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rates of assessment and approve the aforementioned initial Assessment Roll

(B) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (1) a geographic depiction of the property subject to the Fire Inspection Assessment; (2) a brief and general description of the fire inspection services, facilities, or programs to be provided; (3) the rate of assessment; (4) the procedure for objecting provided in Section 2.06 hereof; (5) the method by which the Fire Inspection Assessment will be collected; and (6) a statement that the Initial Assessment Roll is available for inspection at the office of the City Clerk and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the City Clerk.

#### **SECTION 2.05. NOTICE BY MAIL.**

(A) In addition to the published notice required by Section 2.04, the City Manager shall provide notice, or direct the provision of notice, of the proposed Fire Inspection Assessment by first class mail to the Owner of each parcel of property subject to the Fire Inspection Assessment.

(B) Such notice shall include (1) the purpose of the Fire Inspection Assessment; (2) the rate of assessment to be levied against each parcel of property; (3) the unit of measurement applied to determine the Fire Inspection Assessment; (4) the number of such units contained in each parcel of property; (5) the total revenue to be collected by the City from the Fire Inspection Assessment; (6) a statement that failure to pay the Fire Inspection Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7)

a statement that all affected Owners have a right to appear at a public hearing and to file written objections with the City Commission within 20 days of the notice, and (8) the date, time, and place of the public hearing.

(C) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The City Manager may provide proof of such notice by affidavit. Failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Inspection Assessment imposed by the City Commission pursuant to this Ordinance.

#### **SECTION 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION.**

(A) At the public hearing as noticed pursuant to Sections 2.04 and 2.05 hereof, or to which an adjournment or continuance may be taken by the City Commission, the City Commission shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Commission adopt the Final Assessment Resolution which shall (1) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Commission; (2) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (3) approve the initial Assessment Roll, with such amendments as it deems just and right; and (4) determine the method of collection.

(B) The adoption of the Final Assessment Resolution by the City Commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire inspection services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Inspection Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.

(C) All objections to the Final Assessment Resolution shall be filed in writing with the City Manager at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Fire Inspection Assessments are imposed or reimposed hereunder.

**SECTION 2.07 EFFECT OF FINAL ASSESSMENT RESOLUTION.** The Fire Inspection Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the initial rate of assessment; the initial Assessment Roll; and the levy and lien of the Fire Inspection Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Final Assessment Resolution. The



initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Fire Inspection Assessments, such other official as the City Commission by resolution shall designate

#### **SECTION 2.08. ANNUAL ADOPTION PROCEDURES.**

(A) Annually, during the budget adoption process, the City Commission shall determine whether to impose the Fire Inspection Assessment for the upcoming Fiscal year. If the City Commission elects to reimpose the Fire Inspection Assessment, the procedures in this Section 2.08 shall be followed.

(B) The initial proceedings for the reimposition of an annual Fire Inspection Assessment shall be the adoption of a Preliminary Rate Resolution by the City Commission (1) containing a brief and general description of the fire inspection services, facilities, or programs to be provided; (2) determining the Fire Inspection Assessed Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated assessment rate for the upcoming Fiscal Year; (4) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and (5) directing the City Manager to (a) update the Assessment Roll, (b) provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the City

(C) At the public hearing established in the Preliminary Rate Resolution or to which an adjournment or continuance may be taken by the City Commission, the City Commission shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Commission, adopt the Annual Rate Resolution, which shall (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the City Commission deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(D) Nothing herein shall preclude the City Commission from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 2.04 and 2.05 hereof or any other method as provided by law

(E) The City Commission may establish or increase a maximum rate of assessment in an Initial Assessment Resolution or Preliminary Rate Resolution and

confirm such maximum rate in the Annual Rate Resolution in the event notice of such maximum rate has been included in the notices required by Section 2.04 and 2.05 hereof

(F) In the event (1) the proposed Fire Inspection Assessment for any Fiscal Year exceeds the rates of assessment adopted by the City Commission and included in the notices previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (2) the purpose for which the Fire Inspection Assessment is imposed or the use of the revenue from the Fire Inspection Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Fire Inspection Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 2.04 and 2.05 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Inspection Assessment imposed by the City Commission pursuant to this Ordinance.

(G) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll, and the levy and lien of the Fire Inspection Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Inspection Assessment not challenged within the required 20-day period for those Fire Inspection Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(H) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Fire Inspection Assessments, such other official as the City Commission by resolution shall designate. If the Fire Inspection Assessment against any property shall be reduced or abated by the court, an adjustment shall be made on the Assessment Roll

**SECTION 2.09. LIEN OF FIRE INSPECTION ASSESSMENTS.** Upon the adoption of the Assessment Roll, all Fire Inspection Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Fire Inspection Assessment shall be deemed perfected upon the City Commission's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Inspection Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Fire Inspection Assessment collected under the alternative method of collection provided in Section 3 02 shall be deemed perfected upon the City Commission's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

**SECTION 2.10. REVISIONS TO FIRE INSPECTION ASSESSMENTS.** If any Fire Inspection Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the City Commission is satisfied that any such Fire Inspection Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to include or omitted any property on the Assessment Roll, which property should have been so included, the City Commission may take all necessary steps to impose a new Fire Inspection Assessment against any property benefited by the Fire Inspection Assessed Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Fire Inspection Assessment is annulled, vacated, or set aside, the City Commission may obtain and impose other Fire Inspection Assessments until a valid Fire Inspection Assessment is imposed.

**SECTION 2.11 PROCEDURAL IRREGULARITIES.** Any informality or irregularity in the proceedings in connection with the levy of any Fire Inspection Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Fire Inspection Assessment as finally approved shall be competent and sufficient evidence that such Fire Inspection Assessment was duly levied, that the Fire Inspection Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Inspection Assessment were duly had, taken, and performed as required by this Ordinance, and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby

**SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.**

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Manager, City Commission, or their deputies or employees, shall operate to

release or discharge any obligation for payment of a Fire Inspection Assessment imposed by the City Commission under the provision of this Ordinance

(B) When it shall appear that any Fire Inspection Assessment should have been imposed under this Ordinance against a parcel of property specially benefited by the provision of fire inspection services, facilities, or programs, but that such property was omitted from the Assessment Roll, or such property was erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the City Commission may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in Section 2.05, impose the applicable Fire Inspection Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Inspection Assessment due for the prior two Fiscal Years. Such Fire Inspection Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Article III hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the City Manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Fire Inspection Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Inspection Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Inspection Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager and not the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the City Manager.

**SECTION 2.13. INTERIM ASSESSMENTS.** An interim Fire Inspection Assessment shall be imposed against all property for which a Certificate of Occupancy is issued after the adoption of the Annual Rate Resolution. The amount of the interim Fire Inspection Assessment shall be calculated in accordance with the rate schedule adopted for the Fire Inspection Assessments for the Fiscal Year for which the interim Fire Inspection Assessment is being imposed. A credit shall be granted against the interim Fire

Inspection Assessment for any Fire Inspection Assessment paid for the same property for the inspection period. The interim Fire Inspection Assessment shall also include an estimate of the subsequent Fiscal Year's Fire Inspection Assessment. Issuance of the Certificate of Occupancy by mistake or inadvertence, and without the payment in full of the interim Fire Inspection Assessment shall not relieve the Owner of such property of the obligation of full payment. Any interim Fire Inspection Assessment not collected prior to the issuance of the Certificate of Occupancy may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 3 01 of this Ordinance, under the alternative collection method provided in Section 3 02 or by any other method authorized by law. Any interim Fire Inspection Assessment shall be deemed due and payable on the date the Certificate of Occupancy was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy.

### **ARTICLE III**

#### **COLLECTION AND USE OF FIRE INSPECTION ASSESSMENTS**

##### **SECTION 3.01 METHOD OF COLLECTION.**

(A) Unless otherwise directed by the City Commission, the Fire Inspection Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(B) The amount of a Fire Inspection Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (2) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Inspection Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

**SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION.** In lieu of using the Uniform Assessment Collection Act, the City Commission may elect to collect the Fire

Inspection Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The City shall provide Fire Inspection Assessment bills by first class mail to the Owner of each affected parcel of property that is subject to the Fire Inspection Assessment. The bill or accompanying explanatory material shall include (1) a brief explanation of the Fire Inspection Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Inspection Assessment, (3) the number of units contained within the parcel, (4) the total amount of the Fire Inspection Assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Fire Inspection Assessment is due, and (7) a statement that the Fire Inspection Assessment constitutes a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Fire Inspection Assessments shall be recorded in the Official Records of the City. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City shall have the right to foreclose and collect all delinquent Fire Inspection Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Fire Inspection Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in accordance with paragraph (A)(6) of this Section. The City or its agent shall notify any property owner who is delinquent in payment of his or her Fire Inspection Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the City or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Inspection Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent Fire Inspection Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as any Person. The City or its agent may join in one foreclosure action the collection of Fire Inspection Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent Fire Inspection Assessments and any other costs incurred by the City as a result of such delinquent Fire Inspection

Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Fire Inspection Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Fire Inspection Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector

(F) Notwithstanding the City's use of an alternative method of collection, the City Manager shall have the same power and authority to correct errors and omissions as provided to him or other City officials in Section 2.12 hereof

(G) Any City Commission action required in the collection of Fire Inspection Assessments may be by resolution.

### **SECTION 3.03. GOVERNMENT PROPERTY**

(A) In the event Fire Inspection Assessments are imposed against Government Property, the City shall provide Fire Inspection Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Fire Inspection Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Inspection Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Fire Inspection Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Fire Inspection Assessment is due

(B) Fire Inspection Assessments imposed against Government Property shall be due on the same date as all other Fire Inspection Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Fire Inspection Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in paragraph (A)(6) of this Section. The City shall notify the Owner of any Government Property that is delinquent in payment of its Fire Inspection Assessment within 60 days from the date such assessment was due. Such notice shall state that the City will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent Owners of Government Property against which a mandamus or other appropriate action is filed shall

be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Fire Inspection Assessments and any other costs incurred by the City as a result of such delinquent Fire Inspection Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a Fire Inspection Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of non-payment. The City Commission may contract for such billing services with any utility, whether or not such utility is owned by the City

## **ARTICLE IV**

### **GENERAL PROVISIONS**

**SECTION 4.01 APPLICABILITY** This Ordinance and the City Commission's authority to impose assessments pursuant hereto shall be applicable throughout the City

#### **SECTION 4.02. ALTERNATIVE METHOD**

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof

(B) Nothing herein shall preclude the City Commission from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the City, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Assessment Collection Act.

**SECTION 4.03. SEVERABILITY** The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby

**SECTION 4.04. CONFLICTS.** 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.



AN ORDINANCE RELATING TO THE PROVISION OF FIRE INSPECTION SERVICES,  
FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF  
HOLLYWOOD, FLORIDA.

**SECTION 4.05. EFFECTIVE DATE.** This Ordinance shall be in full force and  
effect immediately upon its passage and adoption.

ADVERTISED on the 5 day of June, 2009


PASSED on First Reading on the 3 day of June, 2009

PASSED AND ADOPTED on Second Reading on the 17 day of June,  
2009

  
\_\_\_\_\_  
PETER BOBER, MAYOR

  
\_\_\_\_\_  
ATTEST:  
PATRICIA A. CERNY, MMC  
CITY CLERK

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

  
\_\_\_\_\_  
JEFFREY D. SHEFFEL  
CITY ATTORNEY

6/22/09PAC

## **LEGAL AD CITY OF HOLLYWOOD**

NOTICE IS HEREBY GIVEN in accordance with Section 166.041 Florida Statutes that the City Commission of the City of Hollywood, Florida, at a Regular City Commission Meeting, on WEDNESDAY, June 17, 2009, in the City Commission Chambers, Room 219, General Joseph W Watson Circle, Hollywood, Florida, proposes to consider on second and final reading the following proposed ordinance(s):

Proposed Ordinance - PO-2009-13 beginning at: 1:30 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 118 OF THE CODE OF ORDINANCES ENTITLED "GARAGE SALES" IN ORDER TO UPDATE AND CLARIFY VARIOUS SECTIONS; INCREASING THE NUMBER OF SALES ALLOWABLE PER YEAR; AND PROVIDING FOR AN EFFECTIVE DATE.

Proposed Ordinance - PO-2009-14 beginning at: 1:30 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING A SPECIAL EXCEPTION FOR THE ALLOCATION OF 90 AFFORDABLE HOUSING UNITS WITHIN FLEXIBILITY ZONES 78, 83, 85 AND 103 TO ALLOW FOR THE ADDITION OF 180 SLEEPING ROOMS TO AN EXISTING SENIOR HOUSING DEVELOPMENT ("GARDENS AT DRIFTWOOD") LOCATED AT 7350 N. DAVIE ROAD EXTENSION. (08-F-61)

Proposed Ordinance - PO-2009-15 beginning at: 5:00 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, RELATING TO THE PROVISION OF FIRE INSPECTION SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF HOLLYWOOD, FLORIDA, AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE INSPECTION ASSESSMENTS AGAINST PROPERTY THROUGHOUT THE CITY OF HOLLYWOOD; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE INSPECTION ASSESSMENT"; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE INSPECTION ASSESSMENTS; PROVIDING THAT FIRE INSPECTION ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL, PROVIDING THAT THE LIEN FOR A FIRE INSPECTION ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING A PROCEDURE FOR THE COLLECTION OF FIRE INSPECTION ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

The proposed ordinance(s) may be inspected by the public in the Office of the City Clerk, Room 221, General Joseph W Watson Circle, Hollywood, Florida, between the hours of 8:00

AM and 4 45 PM on any regular working day Interested parties may appear at the aforesaid time and place and be heard with respect to the proposed ordinance(s).

**NOTE.** Any person who decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting will need a record of the proceedings, and it will be their responsibility to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Please call 954-921-3211 for any questions regarding the above matter

Persons with disabilities who require reasonable accommodation to participate in City programs and/or services may call the Office of the City Manager five business days in advance at 954-921-3201 (voice). If an individual is hearing or speech impaired, please call 800-955-8771 (V-TDD).

Dated this 5th day of June, 2009.

Patricia A. Cerny, MMC  
City Clerk  
Hollywood, FL

THE SUN SENTINEL/LEGAL AD  
PUBLISH: FRIDAY, June 5, 2009  
FURNISH PROOF OF PUBLICATION

h:cityclk\ads\legalad\PO-2009-13,14,15