

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 132, "PUBLIC PEACE AND SAFETY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY CREATING SECTION 132.38, "CHRONIC NUISANCE PROPERTY CODE," PROVIDING FOR THE IDENTIFICATION OF PROPERTIES THAT ATTRACT OR PERMIT NUISANCE ACTIVITIES; REQUIRING CORRECTIVE ACTION BY PROPERTY OWNERS; PROVIDING PROCEDURES FOR ENFORCEMENT; PROVIDING FOR NOTICE, HEARING RIGHTS, AND APPEALS; PROVIDING FOR ASSESSMENT AND RECOVERY OF COSTS, FINES AND FEES RELATED TO ENFORCEMENT; PROVIDING FOR LEVY AND COLLECTION OF NON-AD VALOREM ASSESSMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission finds that there is a relative amount of police use, fire rescue and community standards services use to which each parcel of real property is entitled as a taxpayer of the City; and

WHEREAS, the City Commission also finds that some real properties, hereinafter described as "chronic nuisance properties" require disproportionate police, fire rescue, and community standards services and cause an unnecessary burden on those public services and therefore on all taxpayers of the City; and

WHEREAS, property owners are ultimately responsible for the conduct and actions that occur on their property; and

WHEREAS, the properties with disproportionate service calls are an indication that such properties are not being properly managed and/or maintained; and

WHEREAS, the City Commission, deems it appropriate and in the best interests of the health, safety and welfare of the citizens and residents of the City of Pompano Beach to adopt a CHRONIC NUISANCE PROPERTY CODE to identify and address properties that are not properly managed and/or maintained and which burden adjacent properties and the City; and

WHEREAS, the Florida Constitution, Municipal Home Rule Powers Act and Charter of the City of Pompano Beach, Florida, authorize the City Commission to exercise any power for the municipal purpose, except when expressly prohibited by law; and

WHEREAS, the City Commission finds that the provision of chronic nuisance services by the City provides a direct, special benefit to assessed real property; and

WHEREAS, the abatement of chronic nuisances by the City is a municipal service; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct.

SECTION 2. That Section 132.38, "Chronic Nuisance Property Code," of Chapter 132, "Public Peace and Safety," of the Code of Ordinances of the City of Pompano Beach is hereby created to read as follows:

§ 132.38 CHRONIC NUISANCE PROPERTY CODE.

(A) *Statement of Legislative Intent.* Chronic nuisance properties present health, safety and quality of life concerns and exist when the persons

responsible for such properties fail to take corrective action to abate nuisance activities or nuisance conditions. Chronic nuisance properties have a significant adverse effect on the quality of life, safety and health of the neighborhoods where they are located. Chronic nuisance properties are a financial and operational burden to the City by generating repeated calls for service to the properties. Chronic nuisance properties adversely affect the value of adjacent properties. The City of Pompano Beach's Chronic Nuisance Property Code is enacted to address and reduce nuisance activities and/or nuisance conditions that disrupt quality of life and repeatedly occur or exist at properties. The nuisance abatement process hereinafter set forth may be used by the City in conjunction with any and all legal actions available to the City.

It is the City's intent:

(1) To identify chronic nuisance activities and chronic nuisance conditions.

(2) To hold accountable those property owners responsible for such nuisance activities and/or conditions on the property.

(3) To assist victims of crime and penalize those who commit crimes or those who permit conditions to exist that give rise to crime or excessive calls for service to the police and fire departments.

(4) To establish rules, procedures, and penalties to address property owners that have chronic nuisance issues and fail to take corrective measures.

(5) To work in partnership with property owners to address the negative results caused by chronic nuisance activities and/or conditions, and to improve the vitality of neighborhoods by addressing excessive calls for service to the police and fire departments.

(6) To encourage property owners and operators to cooperate by classifying calls for service made by the owners or operators which demonstrate their commitment to abate nuisance activities and/or conditions on their property such that the self-reported activities will not be included as nuisance activity responses.

(B) This section shall not be utilized as a method to collect or otherwise enforce collection of any liens placed by the City pursuant to Chapter 162, F.S. and Chapter 37 of this Code, or Nuisance Abatement liens pursuant to Chapter 96 of this Code, or Unsafe Structure liens pursuant to the Florida Building Code and Chapter 152 of this Code. The procedures herein are utilized solely as an alternative method of enforcement for properties in the City containing various violations that negatively affect its residents under the City's Home Rule Power pursuant to s.(2)(b), Art. VIII of the State Constitution and Chapter 166, Florida Statutes. Collection and enforcement of any liens imposed

pursuant to the aforementioned enforcement actions shall proceed solely in accordance with Florida Law as prescribed for same.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply.

(1) ***ACTION PLAN.*** A plan prepared by the City, incorporated in the Nuisance Abatement Agreement, and agreed to by the owner to address and eliminate nuisance activity on the owner's property by the implementation of proactive steps by the property owner;

(2) ***CHRONIC NUISANCE PROPERTY.*** A property on which one or more continuing nuisance activities occurs or re-occurs

(3) ***CHRONIC NUISANCE SERVICES.*** Remedial action[s] taken by the City to eliminate or mitigate a nuisance condition that threatens public health, safety or welfare.

(4) ***NUISANCE ACTIVITY.*** Nuisance activity means any activity occurring upon a property relating to the following violations, whenever engaged in by the property owner, operator, agent, tenant, or invitee of the property owner, operator, agent or tenant:

- (a) Chapter 110 - Alcoholic beverages
- (b) Chapter 97 - Noise control regulations
- (c) F.S. § 874.03 - Criminal street gang
- (d) Chapter 132 - Sexual Offender residency prohibition
- (e) F.S. § 767.12 - Dangerous dogs
- (f) F. S. § 784.03 – Battery
- (g) F.S. § 784.041 – Felony Battery
- (h) F.S. § 784.045 – Aggravated Battery
- (i) F.S. § 790.01 – Carrying a Concealed Weapon
- (j) F.S. § 790.10 – Improper exhibition of dangerous weapons or firearms
- (k) F.S. § 790.15 (1) - Discharging firearm in public

- (l) F.S. § 796.06 - Renting space to be used for prostitution
- (m) F.S. § 796.07 - Prostitution
- (n) F.S. § 800.03 - Exposure of sexual organs
- (o) F.S. § 806.13 - Criminal mischief
- (p) F.S. § 810.08 - Trespass in structure or conveyance
- (q) F.S. § 810.09 - Trespass on property other than structure or conveyance
- (r) F.S. § 812.014 - Theft
- (s) F.S. § 812.019 - Dealing in stolen property
- (t) F.S. § 812.173 - Convenience business security
- (u) F.S. § 823.01 - Nuisances
- (v) F.S. § 828.12 - Cruelty to animals
- (w) F.S. § 856.011 - Disorderly intoxication
- (x) F.S. § 856.015 - Open house parties
- (y) F.S. § 856.021 - Loitering or prowling
- (z) F.S. § 856.022 - Loitering or prowling in close proximity to children
- (aa) F.S. § 870.01 – Affrays and riots
- (bb) F.S. § 874 - Criminal gang enforcement and prevention
- (cc) F.S. § 877.03 - Breach of the peace; disorderly conduct
- (dd) F.S. Ch. § 893 - any offense under the Florida Comprehensive Drug Abuse Prevention & Control Act, including but not limited to public nuisances as defined by § 893.138.
- (ee) Any other offense under state or federal law that is punishable by a term of imprisonment exceeding one year.

(ff) Failure to comply with any code enforcement order entered by the Special Magistrate pursuant to Chapter 162, F.S. and Section 37 of this Code upon expiration of any appeal period or ruling on appeal.

(gg) Failure to comply with an order of the City's Unsafe Structure Board pursuant to the Florida Building Code and Chapter 152 of this Code.

(hh) Chapter 96 – Sanitary and Public Nuisances

(ii) Chapter 102 – Alarm Systems

(jj) As otherwise provided by this Code.

(5) ***NUISANCE ABATEMENT AGREEMENT.*** An agreement entered into between the City and property owner that contains an "Action Plan" to be implemented by the property owner to address and abate the nuisance activity.

(6) ***NUISANCE CONDITION.*** Any temporary or permanent condition on the property which arises from nuisance activity.

(7) ***OPERATOR.*** Any agent; employee; property manager; tenant; sub-tenant; contractor, sub-contractor; licensee; invitee; or other individual or entity that is authorized by the property owner to supervise, manage or otherwise control any activities which may occur on the property.

(8) ***PATTERN OF NUISANCE ACTIVITY.*** Real property shall be deemed to exhibit a pattern of nuisance activity when:

(a) The City's Law Enforcement Agency has responded to three or more nuisance activities at the property within 30 days; or

(b) The City's Law Enforcement Agency has responded to seven or more nuisance activities at the property within six months; or

(c) The City's Law Enforcement Agency, fire, medical or other emergency personnel have responded to three or more calls for service within 30 days, or seven or more calls for service within six months to the same property to assist an individual who displays the symptoms of an overdose of a controlled substance.

(d) An alcoholic beverage establishment where the City's Law Enforcement Agency has responded to five or more nuisance activities at the property within 30 days or 20 or more nuisance activities at the property within six months; or

(e) There is a failure to correct code violations by the time ordered by the Special Magistrate in any order entered pursuant to Section 37.05 of this Code and additional nuisance activity as defined above in subsection (4) exists on the property; or

(f) There is a failure of the property owner to abate a nuisance in accordance with notice and procedures pursuant to Chapter 96 of this Code and additional nuisance activity as defined above in subsection (4) exists on the property; or

(g) There is a failure to comply with an order of the City's Unsafe Structure Board pursuant to the Florida Building Code and Chapter 152 of this Code and additional nuisance activity as defined above in subsection (4) exists on the property.

(D) *Construction and Application.*

(1) Pattern of nuisance activity will not be construed to include:

(a) A nuisance activity where the property owner, operator, agent, tenant or invitee of the property owner, agent or tenant is the victim of a crime; or

(b) A complaint or call for service to which the City's Law Enforcement Agency responded and determined no violation was committed; or

(c) A domestic violence call.

(2) *Separate occurrences.* For purposes of this Code, each day that the police department responds to a nuisance activity at the property shall be a separate occurrence.

(E) *Declaration of Chronic Nuisance; Action Plan.*

(1) *Declaration.* If a pattern of nuisance activity exists upon real property, the City may declare the property to be a chronic nuisance property. The City's Declaration of Chronic Nuisance shall be sent to the property owner by hand delivery or certified mail, return receipt requested, to the address listed on the ad valorem tax roll. The City's Declaration of Chronic nuisance constitutes a Notice of Violation which, if unaddressed in an executed Nuisance Abatement Agreement, may be prosecuted by the City before the City's Special Magistrate

(2) *Mailing.* Mailing to the property owner at the address listed on the ad valorem roll shall be prima facie proof of delivery. Notice shall also be posted at the property where the nuisance activities occurred. Removal of

the posted Notice without written approval from the City is prohibited. The Notice of Violation shall be sent containing the following information:

(a) A reference to Chapter 132, Section 132.38 (the “City of Pompano Beach Chronic Nuisance Property Code”);

(b) The address and parcel control number of the property;

(c) The dates that the nuisance activities occurred on the property;

(d) A description of the nuisance activities;

(e) A proposed Nuisance Abatement Agreement which outlines the corrective action to be taken by the property owner to remedy the nuisance activity;

(f) A statement that the property owner’s failure to enter into the Nuisance Abatement Agreement within 15 days of the Declaration of Chronic Nuisance will result in a violation of this Code and further prosecution and enforcement action by the City before the City’s Special Magistrate including the entry of a chronic nuisance service order or by any other legal actions available to the City;

(g) A statement that unless the property owner files a timely request for hearing pursuant to section 132.38 (G) (4), the property owner shall be deemed to have waived the right to contest the notice of violation;

(h) A statement that the costs of any chronic nuisance services provided by the City to a property that has been declared to be a Chronic Nuisance may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes;

(i) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. §197.3632; and

(j) A warning that the posted notice cannot be removed except with written permission by the City.

(3) *Development of a corrective action plan.* A Nuisance Abatement Agreement shall set for the Corrective Action Plan with specific measures that the property owner must take to curtail or eliminate the reoccurrence of nuisance activities at the property. The Nuisance Abatement Agreement shall contain a timetable for corrective action. The Property Owner shall provide the action plan to the City no later than fifteen (15) days from the

date of the declaration of the Chronic Nuisance Property. Failure to provide the City with a timely action plan shall be a violation of this Article. The Corrective Action Plan may include abatement measures which must be taken by the property owner such as:

(a) Commencement of an eviction action by the property owner pursuant to Chapter 83 Florida Statutes to remove from the property those individuals engaged in the nuisance activity;

(b) Implementation of “crime prevention through environmental design” (CPTED) measures;

(c) Frequency of site visits and inspections by the owner or owner’s agents at various times of both day and night;

(d) Hiring of property management;

(e) Hiring of private security;

(f) Installation of security cameras;

(g) Use of a written lease agreement which delineates prohibited tenants or tenant invitee conduct;

(h) Criminal background checks for prospective tenants and lease renewals;

(i) Posting of “no trespassing” signs at the property and execution of a “no trespass affidavit” authorizing the police department to act as an agent of the property owner to enforce trespass statutes on the property;

(j) Regular requests to the City’s Law Enforcement Agency for offense and incident reports relating to the property. Reports are available through the records custodian of the police department records division;

(k) Written documentation of any and all efforts to curtail or eliminate the reoccurrence of nuisance activities on the property; or

(l) Other action that the City determines is reasonable sufficient to curtail or eliminate the reoccurrence of nuisance activities on the subject property.

(4) The City may agree to modify the proposed or finalized Nuisance Abatement Agreement when the property owner demonstrates that modification will improve nuisance abatement action.

(5) When a Nuisance Abatement Agreement is entered into, a memorandum of agreement specifying the property address shall be recorded by the City in the official records of Broward County, Florida.

(6) The City, through its Code Enforcement and/or the City's Law Enforcement Agency, shall periodically monitor the property to assure compliance for a period of one (1) year following execution of the Nuisance Abatement Agreement. If the property owner complies with the Agreement, as determined by the City's Code Enforcement and/or the City's Law Enforcement Agency, the Declaration of Chronic Nuisance will be rescinded, the City will issue and record a Notice of Compliance related to the Memorandum of Agreement that was previously recorded, and no further action by the property owner shall be required. Nothing contained herein shall prevent the City from requiring the property owner to enter into a new Agreement if the nuisance activity re-occurs.

(7) If the City, through its Code Enforcement or the City's Law Enforcement Agency, determines during the monitoring period that the Action Plan is not adequate to curtail or eliminate the reoccurrence of nuisance activities on the property, the City may require the property owner to revise the Action Plan. The property owner shall provide the revised action plan to the City no later than ten (10) from the date that the action plan is determined to inadequate. The determination as to whether or not the monitoring period is adequate is in the sole and exclusive discretion of the City, based on the totality of the circumstances for the specific property. Failure to revise the action plan or to provide the City with a timely revised action plan shall be a violation of this section.

(F) *Refusal to Sign or Violation of Agreement.* If a property owner refuses to timely enter into a Nuisance Abatement Agreement or subsequently violates the terms of an Agreement, the City, through its Code Enforcement or the City's Law Enforcement Agency, may bring forth for prosecution, its Declaration of Chronic Nuisance at a publicly noticed hearing before the City's Special Magistrate.

(G) *Request for a Hearing.*

(1) *Request.* A request for a hearing before the City's Special Magistrate shall be filed by the City's Code Enforcement or the City's Law Enforcement Agency within 15 days from the deadline for entry into a Nuisance Abatement Agreement or any violation of a provision of an existing Agreement or Action Plan.

(2) *Hearing by special magistrate.* The City, through its Code Enforcement Department, shall schedule the hearing before the City's Special Magistrate. Said hearing shall be limited to the review of the record or evidence upon which the City based the Declaration of Chronic Nuisance or the failure by the property owner to implement the Agreement/Action Plan. The Property Owner shall have the opportunity to present any rebuttal evidence. All testimony

presented during said hearing shall be under oath and the City and the Property Owner shall be afforded the opportunity to call and cross-examine any witness.

(3) *Decision of special magistrate.* Upon the conclusion of the presentation of evidence from both the City and the Property Owner, the Special Magistrate shall either uphold or reject (i) the City's Declaration of Chronic Nuisance or (ii) the Notice of Violation regarding the Action Plan, as appropriate.

(4) The decision of the Special Magistrate shall be memorialized in a Final Order.

(H) *Entry of Chronic Nuisance Order.*

(1) If the decision of the Special Magistrate upholds the Notice of Violation, the Special Magistrate shall enter a Chronic Nuisance Order which shall include:

(a) Findings of fact(s) establishing a pattern of nuisance activity and a violation of this section;

(b) Authorize the appropriate City personnel to provide chronic nuisance services to the property;

(c) Authorize the City to bill the costs of any chronic nuisance services to the owner of the chronic nuisance property;

(d) Provide for mailing of a copy of the chronic nuisance service order by first class mail to any mortgagee of record. Failure to provide a copy of the chronic nuisance service order to a mortgagee of record shall not operate to release or discharge any obligation under this article or otherwise affect the validity of a chronic nuisance service order;

(e) Provide for the recording of a certified copy of the Special Magistrate's chronic nuisance service order in the public records; and

(f) Provide for the continuing jurisdiction over the chronic nuisance property.

(2) If the Special Magistrate rejects the City's declaration of Chronic Nuisance or chronic nuisance notice of violation, the Special Magistrate shall identify the factual, procedural or legal error upon which the decision is based.

(3) An Order rejecting the City's Declaration of Chronic Nuisance shall not bar the City from recommencing the chronic nuisance process.

(4) A property owner may request a hearing before the Special Magistrate upon receipt of a Declaration of Chronic Nuisance. A request for a hearing shall be filed with the city and shall include the following:

(a) Said request shall be in writing;

(b) Provide a short, plain statement identifying the factual, procedural or legal error upon which the request for hearing is based; and

(c) Include a copy of the Declaration of Chronic Nuisance for the subject property.

(d) If the property owner of a chronic nuisance property fails to file a timely request for hearing, the property owner shall be deemed to have waived the right to contest the declaration of chronic nuisance property or notice of violation.

(I) *Appeal of Special Magistrate Orders.* The property owner or the City may appeal a Final Order of the Special Magistrate to the Broward County Circuit Court. Such appeal shall not be a hearing de novo, but shall be limited to the appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

(J) *Finality and Duration of a Chronic Nuisance Order.*

(1) An Order is final thirty (30) days following entry. Entry shall mean that the Order is executed by the Special Magistrate and filed with the City Clerk.

(2) The Chronic Nuisance Order entered in accordance with this section shall be terminated by subsequent Order of the Special Magistrate when either the City or the Property Owner request reconsideration of the original Order and the Magistrate finds that the nuisance activities have been abated at the property for a period of one (1) year. It is the responsibility of the Property Owner to contact the City to document the abatement. If the City determines that the nuisance has been abated, the one-year time period specified herein shall commence as of the date of the City's abatement determination.

(K) *Abatement of Chronic Nuisances; Provision of Services; Apportionment.*

(1) *Abatement by the City.* The Property Owner shall be responsible for abatement of nuisances on the property. If the Code Compliance Officer or the City's Law Enforcement Agency or any designee thereof, determine, upon consulting with the City Attorney's Office, that the conditions exists on the property that constitute health and safety issues and the property owner has not taken remedial action, the City, through its Code and/or the City's

Law Enforcement Agency or any designee thereof, may act in the interest of public health safety and welfare and take remedial action. The City may also take abatement action when authorized or ordered by a Special Magistrate or Judge. The City's costs associated with taking such remedial action shall be billed to the property owner and said costs may be collected by the City by any legal means.

(2) *Apportionment.* City incurred costs in providing remedial action shall be entirely apportioned to the assessed real property receiving the remedial chronic nuisance service(s).

(L) *Establishment of Costs; Billing of Costs; Notice of Delinquency.*

(1) *Establishment.* Chronic nuisance service or remediation costs are established by City Commission Resolution.

(2) *Billing of chronic nuisance service or remediation costs.* The City shall bill the property owner(s) of the chronic nuisance property by first class mail to the address listed on the ad valorem tax roll. Where there are multiple owners of a property, the City need only bill one of the owners. The bill shall contain at least the following information:

(a) The address and parcel control number of the chronic nuisance property;

(b) The date of each chronic nuisance service;

(c) A brief description of each chronic nuisance service;

(d) The total amount of the bill for each chronic nuisance service;

(e) A statement that the total amount of the bill shall be paid to the City within thirty (30) days from the date of the bill and that any chronic nuisance service or remediation cost which has not been paid within thirty (30) days from the date of the bill shall be delinquent;

(f) A statement that any unpaid chronic nuisance service or remediation costs will be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and

(g) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided for in F.S. §197.3632.

(3) *Notice of Delinquency.* The total amount of the bill shall be paid to the City within thirty (30) days from the date of the bill. Any chronic nuisance service or remediation cost which has not been paid within thirty (30) days from the date of the bill shall be delinquent. If the property owner fails to pay the total amount of the bill within thirty (30) days from the date of the bill, the City shall notify the property owner of the delinquency. The notice of delinquency shall be by first class mail to the address listed on the ad valorem tax roll and shall contain the following information:

(a) The address and parcel control number of the chronic nuisance property;

(b) The amount of the delinquent billings, individual and total;

(c) A statement that any unpaid chronic nuisance service or remediation costs will be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and

(d) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided for in F.S. §197.3632.

(4) *Construction of chronic nuisance costs.* Chronic nuisance service(s) or costs shall not include any amount attributable to general law enforcement activities or the general enforcement of municipal codes upon a property that has not been declared by the City to be a chronic nuisance and that has not received a chronic nuisance service order from the Special Magistrate.

(M) *Change in Title to Chronic Nuisance Property.* Any new purchaser, persons or business entity who takes title to the property which has been declared a chronic nuisance property shall provide the City with an Action Plan to abate the chronic nuisance within forty-five (45) of taking lawful title.

(N) *Unpaid Chronic Nuisance Service Costs; Non-Ad Valorem Assessment.* Any chronic nuisance service costs that remains delinquent and unpaid as of June 1 of each year shall be a special assessment levied against the benefitted real property as a non-ad valorem assessment superior to all other private rights, interests, lines, encumbrances, titles and claims upon the benefitted real property and equal in rank and dignity with a lien for ad valorem taxes.

(O) *Initial Assessment Roll.*

(1) *Contents of the initial assessment roll.* The City Manager, or his or her designee, shall, annually, prepare or direct the preparation of an initial assessment roll which shall contain the following:

(a) A summary description of all benefitted real property with delinquent chronic nuisance service costs to be assessed, conforming to the description contained on the ad valorem tax roll;

(b) The name of the owner of the benefitted real property as listed on the ad valorem tax roll and maintained on the property appraiser's system; and

(c) The amount of the chronic nuisance service costs to be assessed against each parcel of benefitted real property.

(2) *Public inspection of initial assessment roll.* The initial assessment roll shall be retained by the City Clerk and shall be open to public inspection.

(3) *Notice to property appraiser.* A copy of the initial assessment roll shall be provided to the property appraiser and included as a part of the notice of proposed property taxes under F.S. §200.069, the truth-in-millage notification.

(P) *Notice of Public Hearing.*

(1) *Public hearing.* The City Commission shall adopt a non-ad valorem assessment roll at a public hearing in accordance with F.S. §197.3632.

(2) *Notice by mail.* The City shall notice the hearing related to the initial assessment roll by first class mail. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information;

(a) The purpose of the assessment;

(b) The total amount to be levied against each parcel of assessed real property;

(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 City Commission within twenty (20) days of the notice; and

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

The mailed notice shall conform to the requirements set forth in F.S. §197.3632. Notice shall be mailed at least twenty (20) calendar days prior to the hearing to each property owner at the address listed on the ad valorem tax roll.

Failure of the property 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 chronic nuisance service assessment.

(3) *Notice by Publication.* The City shall notice the hearing related to the initial assessment roll by publication in a newspaper generally circulated within the county. The published notice shall conform to the requirements set forth in F.S. §197.3632 and shall contain at least the following information:

- (a) Identifying the City;
- (b) A geographic depiction of the City boundaries subject to the assessment;
- (c) A brief and general description of the chronic nuisance services provided;
- (d) The proposed schedule of the assessment;
- (e) Statement that the assessment will be collected by the tax collector;
- (f) A statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within twenty (20) days of the publication of the notice; and
- (g) A statement that the initial assessment roll is available for inspection at the office of the City Clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed real property at the office of the City Clerk.

(Q) *Public Hearing; Adoption of Final Assessment Roll.*

(1) *Public hearing.* At the scheduled public hearing, the City Commission shall receive the written objections and shall hear testimony from all interested persons. The City Commission may adjourn the hearing from time to time. If the City Commission adopts the non-ad valorem assessment roll, the City Commission shall specify the amount of the assessment. Notwithstanding the notices provided for in this Article of the Code, the City Commission may adjust the assessment or the application of the assessment to any assessed real property based on the benefit which the City will provide or has provided to the property.

(2) *Adoption of final assessment roll.* The City Commission may, at the public hearing or at any subsequent meeting of the City Commission, adopt an assessment roll which shall confirm, modify, or repeal the initial assessment roll with such amendments, if any, as the City Commission deems equitable.

(3) *Legislative determination of special benefit and fair apportionment.* The adoption of the final assessment roll by the City Commission shall constitute a legislative determination that all assessed parcels of real property derive a special benefit from the chronic nuisance services provided by the City and a legislative determination that the assessments are fairly and reasonable apportioned to the properties.

(R) *Lien of Chronic Nuisance Service Assessments.* Upon the adoption of the final assessment roll, all chronic nuisance service assessments shall constitute a perfected lien against the assessed real property superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes.

(S) *Correction of Errors and Omissions.*

(1) *Validity of assessment.* Any informality or irregularity in the proceedings on connection with the levy of a chronic nuisance service assessment shall not affect the validity of the assessment after approval by the City Commission. A chronic nuisance service assessment as finally approved by the City Commission shall be competent evidence that the assessment was duly levied, made and adopted, and that all other proceedings were duly taken. No act or error or omission on the part of the property appraiser, tax collector, finance director, or other employee of the city shall operate to release or discharge any obligation for payment of a chronic nuisance service assessment imposed by the city under this article.

(2) *Correction of errors by finance director.* Prior to the delivery of the assessment roll to the tax collector in accordance with F.S. §197.3632, the finance director shall have the authority at any time to correct any error or omission in applying the assessment to any particular parcel of assessed real property not otherwise requiring the provision of notice pursuant to F.S. §197.3632. Any such correction shall be considered valid ab initio and shall not affect the enforcement of the chronic nuisance service assessment. Any such correction shall be processed by the finance director and not the property appraiser or tax collector.

(T) *Method of Collection.* Unless otherwise directed by the City Commission, chronic nuisance service assessments shall be collected pursuant to the uniform method provided in F.S. §197.3632. Any required hearing or notice may be combined with any other hearing or notice required by F.S. §197.3632 or other provision of law.

(U) *Alternative Method of Collection.*

(1) In lieu of utilizing F.S. §197.3632 collection methods, the City may elect to collect a chronic nuisance service assessment by any other

method authorized by law or under the alternative collection method provided by this section.

(2) The City shall have the right to foreclose and collect all delinquent chronic nuisance service assessments in the manner provided by law for the foreclosure of mortgages on real property. All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action shall be included in any judgment or decree rendered.

(3) Notwithstanding the city's use of an alternative method of collection, the finance director shall have the same power and authority to correct errors and omissions as provided in this division.

SECTION 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 4. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2018.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/tal:jrm:jmz
7/2/18
L:ord/ch 132/2017-255