

ARTICLE 8.4 SPECIAL ASSESSMENTS [Article Repealed and New Article Enacted by Ord. 10-99 4/6/99]

Section 8.4.1 Authority to Make Special Assessments:

(A) The City Commission is authorized, in the manner herein provided, to cause the city or its designated agent to construct, install, repair, or otherwise improve any and all of the following:

- (1) streets, highways, boulevards, avenues, lanes, alleys, or any part thereof, and
- (2) curbs, medians, gutters, or other such amenities, and
- (3) any and all sidewalks, paths, trails, foot bridges or other related travel ways, and
- (4) associated street lighting, landscaping, signage, street furniture or other related amenities, and
- (5) on- or off- street parking facilities or related amenities, and
- (6) sanitary sewers, storm sewers, sewers, drains, swales or related amenities, and
- (7) walls as a barrier from public roadways, alleys and other public areas, and
- (8) seawalls, and
- (9) canals or other waterways, and
- (10) mass transportation systems, and
- (11) water mains, water laterals, alternative water systems and other related amenities, and
- (12) parks and related amenities, and
- (13) any other public improvements not heretofore enumerated that the City Commission deems appropriate.

The City Commission is further authorized and empowered to provide for the payment of the whole or any part of the cost thereof by levying and collecting special assessments upon abutting, adjoining and contiguous or other specially benefited property. The amount assessed against the property benefited by improvements authorized by this subsection shall not exceed the estimated benefits accruing to that property by reason of the public improvements.

SECTION 8.4.1 (A)

In addition to other lawful authority to levy and collect special assessments, the City Commission may levy and collect special assessments to fund capital improvements and municipal services, including, but not limited to, garbage disposal, sewer improvement, street improvement, and parking facilities. The City Commission may apportion costs of such special assessments in accordance with Section 8.4.2.

(B) However, parking garages and mass transportation systems shall have the prior approval of affected property owners. If the City is ever in the situation where it is legally obligated for providing capital improvements for water or sewer facilities within an unincorporated area of the county, it may recover the costs of the capital improvements by levying and collecting special assessments for the purposes authorized in this section on the specially benefited property; however, collections of the special assessment shall not take place until the specially benefited property connects to the capital improvement.

Section 8.4.2 Method of Making Special Assessments:

Special assessments upon the property benefited by any public improvement herein authorized shall be by any one of the following methods:

(1) By foot frontage of the property bounding or abutting upon the improvement.

(2) By any other method, including but not limited to each lot, so long as each property shall receive a special benefit from the improvements.

Section 8.4.3 Resolution of Necessity Required:

When the Commission shall determine to make a public improvement, then it shall so declare by resolution, stating the necessity for and the nature of the proposed improvements, the location of the proposed improvements, and what part or portion of the expenses thereof shall be paid by special assessments. The resolution shall also state the total estimated cost of the proposed improvements; the method of payment of assessments; the number of annual installments; the lands upon which the special assessments shall be levied; and the anticipated benefits which shall accrue to such lands from the special assessments.

(A) Scope and Conditions of Resolution:

(1) The resolution required under this section may embrace improvements of like character upon or in more than one street, alley or public right-of-way, and these improvements need not be continuous, but no improvements, except the laying of storm sewers, canals or other open waterways, shall be embraced in any single resolution except such improvements that are related in character or are a part of an integrated plan. The resolution shall designate the boundaries of the district comprising the property which the Commission deems will be specially benefited by the improvement.

SECTION 8.4.3 (A) (2)

(2) The grading of sidewalks may be included in the cost of sidewalk construction, and curbing may be included either with street improvement or with sidewalk construction as the resolution may direct.

(3) The estimated cost stated in the resolution required under this section shall include an estimate of the cost of preliminary and other surveys, inspection, and superintendence of the work, the preparation of the plans, specifications, and an estimate of the printing and publishing of notices and proceedings, the preparation of certificates, bonds, and any other expenses necessary or proper, which expenses, except the cost of the work itself, are hereinafter referred to as incidental expenses.

(4) The improvements covered by a single resolution may be designated in all proceedings, assessments, or publications by any short or convenient designation, and property against which assessments may be made for the cost of the improvement may be designated as a district followed by a letter or number or name to distinguish it from other districts.

(B) **Publication of Resolution:** The resolution to be adopted as aforesaid shall be published in a newspaper published in the County, once each week for two consecutive weeks, together with a notice setting forth that the Commission has determined the necessity for the improvements to be made, setting forth the method of assessment to be utilized and setting forth the anticipated benefits that the assessed properties will gain from the proposed improvements, according to the plans and specifications of the proposed improvements on file in the office of the City Clerk.

(C) **Plans and Specifications:** At the time of the adoption of the resolution provided for in this Section, there shall be on file with the City Clerk an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans, specifications and estimate shall be open to the inspection of the public

Section 8.4.4 Preliminary Assessment Roll:

Upon the adoption of the resolution aforesaid, the City Commission shall cause to be made a preliminary assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed as promptly as possible; said assessment roll shall show the lots and lands assessed and the amount of the benefit to and the assessment against each lot or parcel of land, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon said assessment roll.

Section 8.4.5 Publication of Preliminary Assessment Roll:

Upon the completion of said preliminary assessment roll, the City Commission shall by resolution fix a time and place at which the owners of the property to be assessed or any other persons interested therein may appear before the Commission and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Thirty days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the assessment and shall be served by mailing a copy to each of such property owners at his or her last known address, the names and addresses of such property owners to be obtained from the records of the property appraiser or from such other sources as the City Clerk deems appropriate, proof of such mailing to be made by the affidavit of the City Clerk, said proof to be filed in the City Clerk's Office, provided, that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation published in the County; provided that the last publication shall be at least 1 week prior to the date of the hearing. Said notice shall describe the areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of the property may be ascertained at the office of the City Clerk. Such service by publication shall be verified by the affidavit of the publisher and filed with the City Clerk.

Section 8.4.6 Final Consideration of Special Assessments:

The City Commission shall meet and hear testimony from affected property owners as to the propriety and advisability of making the improvements and funding them with special assessments on property. Following the testimony, the City Commission shall make a final decision on whether to levy the special assessments. The City Commission may adjust the special assessments on property on the basis of the benefit received by the property. Notice of the City Commission meeting concerning the Final Consideration of Special Assessments shall be as provided in Section 8.4.5.

Section 8.4.7 Priority of Lien; Interest; and Method of Payment:

The special assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvement; shall remain liens coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate of eight percent (8%) per year.

Section 8.4.8 Legal Proceedings:

Each annual installment provided for in Section 8.4.7 shall be paid upon the dates specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and upon the failure of any property owner to pay any annual installment due, or any part thereof, or any annual interest upon deferred payments, the City shall cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs on fees incurred, to be assessed as part of the costs and in the event of default in the payment of any installment of an assessment, or any accrued interest on said assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment service of process against unknown or nonresident defendants may be had by publication, as now provided by law. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages; or, in the alternative, said proceeding may be instituted and prosecuted under Chapter 173 of the Florida Statutes.

Section 8.4.9 Provisions Declared Supplementary:

The City shall have all the powers, privileges and authorities provided by Florida Statute Chapter 170, as the same for making local improvements, and the same shall be an additional and alternative method for making local improvements in the City.

Nothing contained herein shall apply to the charging of fees for services and the City retains such power to impose fees for services by ordinance or resolution adopted as required by law. The City also has supplementary authority to impose special assessment liens for the abatement of nuisances in accordance with Chapter 100 of the Code of Ordinances. In addition, the City retains the authority to impose conditions of development and redevelopment, which, need not meet the requirements of this Chapter.