

ORDINANCE NO. 2019-06

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, CREATING DIVISION 6 UNDER ARTICLE VII FINANCE IN CHAPTER 2 OF THE CITY CODE OF ORDINANCES TO ADDRESS THE LEVY AND COLLECTION OF NUISANCE ABATEMENT SERVICES NON-AD VALOREM ASSESSMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres (the "City") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the conditions exist within the City that violate public rights, subvert public order, and/or cause inconvenience or damage to the public generally; and

WHEREAS, the City may, under its police powers regulate, restrain, and abate activities or conditions which are dangerous to the public health, safety or welfare; and

WHEREAS, pursuant to Chapter 7, Article II, Division 2 of the City's Code of Ordinances, the City has adopted the procedures to address and abate nuisances on properties within the City, including, but not limited to, overgrown lots and vacant, accessible structures; and

WHEREAS, these provisions authorize the City to assess the unpaid costs for such abatement services as a special assessment; and

WHEREAS, the City Council finds that the provision of these various nuisance abatement services provides a direct, special benefit to assessed real property; and

WHEREAS, the City Council finds that there is a logical relationship between the provision of abatement services by the City and an enhancement in the value and desirability of the assessed real property; and

WHEREAS, the City Council finds that assessing the costs incurred by the city for abating nuisances against the violating properties is fair and reasonable; and

WHEREAS, the City Council wishes to provide for the levy and collection of unpaid nuisance abatement services assessments as non-ad valorem assessments; and

WHEREAS, the City Council hereby finds that this Ordinance serves a public purpose and is in the best interest of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AS FOLLOWS:

Section 1. Findings. The foregoing recitals are hereby ratified and conformed as being true and correct and are hereby incorporated as findings of the City Council of the legislative intent of this ordinance.

Section 2. The City of Greenacres Code of Ordinances is hereby amended by adding Division 6 "Levy and Collection of Nuisance Abatement Services Non-Ad Valorem Assessments," to Article VII "Finance" of Chapter 2 "Administration" which division reads as follows:

DIVISION 6. – LEVY AND COLLECTION OF NUISANCE ABATEMENT SERVICES NON-AD VALOREM ASSESSMENTS

Sec. 2-270. – Definition; non-ad valorem assessment.

- (a) Definition. "Nuisance abatement services costs," when used in this division, shall include the costs incurred by the city to abate the following nuisances:
- (1) Lot cleanings pursuant to sections 7-34, 7-35, and 7-36 of this code;
 - (2) Boarding and securing of structures pursuant to sections 7-34, 7-35, and 7-36 of this code; and
 - (3) Demolition of structures pursuant to section 116 of the city's Amendments to the Florida Building Code, as amended from time to time.
- (b) Non-ad valorem assessment. Any nuisance abatement service costs that remain delinquent and unpaid as of June 1st 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, liens, encumbrances, title and claims upon the benefitted real property and equal in rank and dignity with a lien for ad valorem taxes.

Sec. 2-271. – Initial assessment roll.

- (a) Council direction. On a date after June 1 of each year, the city council shall adopt a resolution that directs city staff to prepare the initial assessment roll, schedule the required public hearing, and comply with the notice requirements set forth in this division and pursuant to section 197.3632, Florida Statutes.
- (b) Contents. The finance director shall, annually, prepare or direct the preparation of an initial assessment roll which shall contain the following:
 - (1) A summary description of all benefited real property with delinquent nuisance abatement service costs to be assessed, conforming to the description contained on the ad valorem tax roll;
 - (2) The name of the owner of the benefited real property as listed on the ad valorem tax roll and maintained on the property appraiser's system; and
 - (3) The amount of the nuisance abatement service costs to be assessed against each parcel of benefited real property.
- (c) Public inspection of initial assessment roll. The initial assessment roll shall be retained by the city clerk 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 nuisance abatement services assessment for each parcel of benefited real property can be determined by use of a computer terminal available to the public.
- (d) Notice to property appraiser. A copy of the initial assessment roll shall be provided to the property appraiser and included as part of the notice of proposed property taxes under section 200.069, Florida Statutes.

Sec. 2-272. – Notice of public hearing.

- (a) Contents. The city council shall adopt a non-ad valorem assessment roll at a public hearing in accordance with section 197.3632, Florida Statutes.
- (b) Notice by mail. The city shall notice the hearing related to the adoption of the non-ad valorem assessment roll by first-class U.S. mail. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information:

- (1) The purpose of the assessment;
- (2) The total amount to be levied against each parcel;
- (3) The total revenue the city will collect by the assessment;
- (4) 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;
- (5) A statement that all affected property owners have a right to appear at the hearing and to file written objections with the city council within twenty (20) days of the notice; and
- (6) The date, time, and place of the hearing.

The mailed notice shall conform to the requirements set forth in section 197.3632, Florida Statutes. The notice shall be mailed at least twenty (20) days prior to the hearing to each property owner at the address listed on the ad valorem tax roll. Failure of a 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 nuisance abatement services assessment.

- (c) Notice by publication. The city shall notice the hearing related to the adoption of the non-ad valorem assessment roll by publication in a newspaper generally circulated within the county. The published notice shall conform to the requirements of section 197.3632, Florida Statutes and shall contain at least the following information:

- (1) The name of the city;
- (2) A geographical depiction of the city boundaries subject to the assessment;
- (3) The proposed schedule of the assessment;
- (4) The fact that the assessment will be collected by the tax collector; and
- (5) 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.

Sec. 2-273. – Public hearing; adoption of final assessment roll.

- (a) Public hearing. At the public hearing, the city council shall receive the written objections and shall hear testimony from all interested persons. The council may adjourn the hearing from time to time. If the council adopts the non-ad valorem assessment roll, it shall specify the amount of the assessment. Notwithstanding the notices provided for in section 2-272, the council may adjust the assessment or the application of the assessment to any affected property based on the benefit which the council will provide or has provided to the property.
- (b) Adoption of final assessment. The city council may, at the public hearing or at any subsequent meeting of the city council, adopt an assessment roll which shall confirm, modify, or repeal the initial assessment roll with such amendments, if any, as the city council deems equitable.
- (c) Legislative determination of special benefit and fair apportionment. The adoption of the final assessment roll by the city council shall constitute a legislative determination that all assessed parcels of real property derived a special benefit from the nuisance abatement services provided by the city and a legislative determination that the assessments are fairly and reasonably apportioned to the properties.

Sec. 2-274. – Lien of nuisance abatement service assessments.

Upon the adoption of the final assessment roll, all nuisance abatement services assessments shall constitute a perfected lien against the assessed real property superior to all other private rights, interests, liens, encumbrances, and title land claims upon the property and equal in rank and dignity with a lien for ad valorem taxes. 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 initial assessment roll, and the levy and lien of the nuisance abatement service assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the adoption of the final assessment resolution.

Sec. 2-275. – Corrections of errors and omissions.

- (a) Validity of assessment. Any informality or irregularity in the proceedings in connection with the levy of a nuisance abatement services assessment shall not affect the validity of the assessment after approval by the city council. A nuisance abatement service assessment as finally approved by the city council shall be competent evidence that the assessment was duly levied, made and adopted, and that all other proceedings were duly taken. No act of 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 nuisance abatement service assessment imposed by the city under this division.
- (b) Correction of errors by finance department. Prior to the delivery of the assessment roll to the tax collector in accordance with section 197.3632, Florida Statutes, the finance department and 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 section 197.3632. Any such correction shall be considered valid ab initio and shall not affect the enforcement of the assessment. Any such correction shall be processed by the finance director and not the property appraiser or tax collector.

Sec. 2-276. – Method of collection; alternatives.

- (a) Uniform method. Unless otherwise directed by the city council, nuisance abatement services assessments shall be collected pursuant to the uniform method provided in section 197.3632, Florida Statutes.
- (b) Alternative methods of collection. In lieu of using section 197.3632, the city may elect to collect nuisance abatement services assessments as set forth below:
 - (1) Foreclosure in the manner provided by law for the foreclosure of mortgages on real property. All costs, fees and expenses, including reasonable attorneys' fees, related to any foreclosure action shall be included in any judgment rendered.

- (2) Any other method authorized by law.
- (3) Notwithstanding the city's use of an alternative method of collection, the finance director shall have the power and authority to correct errors and omissions as provided for in this division.

Section 3. Repeal of Conflicting Ordinances. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group or persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. Inclusion in Code. It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Code of Laws and Ordinances of the City of Greenacres; that the section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article" or another word.

Section 6. Effective Date. This Ordinance shall take effect upon passage of this Ordinance.

Passed on the first reading this 3rd day of June, 2019.

PASSED AND ADOPTED on the second reading this 17th day of June, 2019.

Voted

Joel Flores
Mayor

Judith Dugo
Deputy Mayor

Attest:

Melody Larson, CMC
Acting City Clerk

John Tharp
Council Member, District I

Peter A. Noble
Council Member, District II

Jonathan G. Pearce
Council Member, District IV

Paula Bousquet
Council Member, District V

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia
City Attorney