

## ORDINANCE 2021-13

**AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF OCALA, FLORIDA BY ESTABLISHING A NEW ARTICLE IV IN CHAPTER 30, FIRE ASSESSMENTS; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR INTERPRETATION AND APPLICABILITY; PROVIDING GENERAL AUTHORITY, GENERAL FINDINGS, AND LEGISLATIVE DETERMINATION OF SPECIAL BENEFIT TO PROPERTY; ESTABLISHING INITIAL PROCEEDINGS FOR IMPOSITION OF FIRE ASSESSMENTS INCLUDING PROVIDING FOR THE INITIAL ASSESSMENT RESOLUTION, INITIAL ASSESSMENT ROLL, PROVIDING FOR NOTICE BY PUBLICATION AND NOTICE BY MAIL, PROVIDING FOR ADOPTION OF THE FINAL ASSESSMENT RESOLUTION, AND PROVIDING FOR EFFECT OF FINAL ASSESSMENT RESOLUTION; ESTABLISHING ANNUAL PROCEEDINGS FOR IMPOSITION OF FIRE ASSESSMENTS INCLUDING PROVIDING FOR ADOPTION OF PRELIMINARY ASSESSMENT RESOLUTION AND ANNUAL ASSESSMENT RESOLUTION, PROVIDING NOTICE, AND PROVIDING FOR EFFECT OF ANNUAL ASSESSMENT RESOLUTION; PROVIDING FOR A LIEN ON ASSESSED PROPERTY; PROVIDING FOR REVISIONS TO FIRE ASSESSMENTS; PROVIDING FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING FOR IMMATERIALITY OF PROCEDURAL IRREGULARITIES; PROVIDING FOR INTERIM ASSESSMENTS; PROVIDING FOR UNIFORM METHOD OF COLLECTION; PROVIDING FOR ALTERNATIVE METHODS OF COLLECTION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY, CONFLICTS, AND REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Ocala, Florida (“City”) provides comprehensive fire protection and first responder medical services throughout the City that provides special benefit to improved properties in the City; and

WHEREAS, the City incurs significant costs related to the provision of fire protection services, facilities and programs and maintaining the availability of these services, facilities and programs on an on-going basis for the public benefit; and

WHEREAS, the City previously funded a portion of the cost of fire protection services, facilities and programs through the imposition and collection of an Emergency Fire Service User Fee pursuant to Chapter 30, Article III of the Code of Ordinances of the City of Ocala, Florida; and

WHEREAS, with the adoption of Ordinance 2020-45 on July 21, 2020, the City suspended imposition and collection of the Emergency Fire Service User Fee due to an ongoing legal challenge and litigation regarding the user fee; and

WHEREAS, insufficient funding is available from other general fund revenue sources to continue providing the level of emergency fire services that the city desires to provide to the citizens and properties located in the city; and

WHEREAS, the City Council has legislative discretion to determine the best manner of providing funds needed to support the public health, safety and welfare of its citizens and has determined that the adoption of Fire Assessments is necessary to contribute funding for the City's fire protection services, facilities and programs.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OCALA, FLORIDA, in regular session as follows:

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

**Section 2.** The Code of Ordinances of the City of Ocala, Florida is hereby amended as follows to establish a new Article IV in Chapter 30 of the City of Ocala Code of Ordinances, regarding Fire Assessments:

**ARTICLE IV. FIRE ASSESSMENTS**

**Sec. 30-60. Definitions.**

(a) Words, terms and phrases. As used in this article, the following words, terms or phrases shall have the following meanings, unless the context clearly indicates otherwise:

***Annual Assessment Resolution*** means the resolution described in Section 30-64 hereof, establishing the rate at which a Fire Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year in which a Fire Assessment is imposed or reimposed.

***Assessed Property*** means all parcels of land included on the Assessment Roll and subject to the Fire Assessments authorized by this Article.

***Assessment Roll*** means the special assessment roll relating to a Fire Assessment approved by a Final Assessment Resolution pursuant to Section 30-63 hereof or an Annual Assessment Resolution pursuant to Section 30-64 hereof.

***Building*** means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lot(s) or spaces are offered for use, rent or

lease for the placement of mobile homes, recreational vehicles, or the like for residential purposes.

**Building Permit** means, for purposes of any Interim Assessments imposed pursuant to this Article, an official document or certificate issued by the City, under the authority of ordinance or law, authorizing the construction or siting of any Building within the City. For purposes of this Article, the term Building Permit shall also include set up or tie down permits for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

**Certificate of Occupancy** means, for purposes of any Interim Assessments imposed pursuant to this Article, the written certificate issued by the City that a Building is ready for occupancy for its intended use. For the purposes of this Article, 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 Ocala, Florida.

**City Clerk** means the Clerk of the City Council.

**City Council** means the City Council of the City of Ocala, Florida.

**City Manager** means the chief administrative officer of the City, designated by the City Council to be responsible for coordinating Fire Assessments or such person's designee.

**County** means Marion County, Florida.

**Final Assessment Resolution** means the resolution described in Section 30-63 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Assessments.

**Fire Assessed Cost** means the amount determined by the City Council to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire protection services, facilities, or programs, referred to collectively in this Article as Fire Services, which are hereby found to provide a special benefit to Assessed Property, and may 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, pension 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) a reasonable amount for a capital asset replacement reserve account; (m) the costs of compliance with any contracts or agreements entered into by the City to provide Fire Services; (n) all costs associated with the structure, implementation, collection, and enforcement of the Fire Assessments, including any service charges of the Tax Collector and/or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Assessments collected pursuant to Section 30-67 herein; (o) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire protection services, facilities, or programs, and such other expenses as may be necessary or incidental to any related

financing authorized by the City Council by subsequent resolution; (p) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Assessments; and (q) 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 Assessed Cost. In the event the City also imposes an impact fee upon new growth or development for fire protection related capital improvements, the Fire Assessed Cost shall not include costs attributable to capital improvements necessitated by new growth or development that will be paid by such impact fees.

**Fire Assessment** means a special assessment lawfully imposed by the City Council against Assessed Property to fund all or any portion of the cost of the provision of Fire 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 Services** include, but are not limited to, fire suppression, prevention, education and inspection services and first response medical services (also referred to as basic life support or BLS) as well as equipment, materials, vehicles and capital facilities used in providing such Fire Services. References to fire-rescue services in the context of this Article and the Fire Assessments imposed by the City shall refer to Fire Services as defined herein. Fire Services as defined in this Article do not include advanced life support (ALS) services of the type disallowed by the Florida Supreme Court in City of North Lauderdale v. SMM Properties, Inc., 825 So.2d 343 (Fla. 2002).

**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, a municipal corporation, or any of their respective agencies or political subdivisions.

**Initial Assessment Resolution** means the resolution described in Section 30-63 hereof which shall be the initial proceeding for the identification of the Fire Assessed Cost for which an assessment is to be made and for the imposition of a Fire Assessment.

**Maximum Assessment Rate** means the highest rate of a Fire Assessment established by the City Council in an Initial Assessment Resolution or Preliminary Assessment Resolution and confirmed by the City Council in the Final Assessment Resolution or Annual Assessment Resolution.

**Ordinance** means this Fire Assessment Ordinance and may also be referred to as Chapter 30, Article IV of the City Code.

**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 Assessment Resolution** means the resolution described in Section 30-64 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Assessments pursuant to an Annual Assessment Resolution.

**Property Appraiser** means the Marion County Property Appraiser.

**Tax Collector** means the Marion County Tax Collector.

**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.

### **Sec. 30-61. Interpretation, Applicability**

(a) 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 or this Chapter 30, Article IV of the City Code, and the term hereafter means after, and the term heretofore means before, the effective date of this Ordinance or this Chapter 30, Article IV. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise. This Article, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

(b) Applicability. The provisions of this Article and the City Council's authority to impose assessments pursuant hereto shall be applicable throughout the City.

### **Sec. 30-62. General Authority, General Findings, and Legislative Determination of Special Benefit to Property.**

(a) General Authority. It is hereby ascertained, determined, and declared that:

(1) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, and the Charter of the City of Ocala, Florida, the City Council has all powers of local self-government 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.

(2) The City Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Council 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 protection services, facilities, or programs of the City.

(3) The City Council is hereby authorized to impose an annual or partial year Fire Assessment to fund all or any portion of the Fire 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 protection services, facilities, or programs. All Fire Assessments shall be imposed in conformity with the procedures set forth in this Article.

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

(5) Nothing contained in this Article shall be construed to require the imposition of Fire Assessments against Government Property.

(6) This Article 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.

(7) Nothing herein shall preclude the City Council from directing and authorizing, by resolution, the combination with each other of (i) any supplemental or additional notice deemed proper, necessary, or convenient by the City, (ii) any notice required by this Ordinance, or (iii) any notice required by law, including the Uniform Assessment Collection Act.

(b) General Findings. It is hereby ascertained, determined, and declared that:

(1) The purpose of this Article is to provide procedures and standards for the imposition of city-wide Fire Assessments under the general home rule powers of a municipality to impose special assessments; to authorize a procedure for the funding of fire protection services, facilities, or programs providing special benefits to property within the City; and to legislatively determine the special benefit provided to Assessed Property from the provision of combined fire control and first response medical services by the City under its fire protection program.

(2) The City Council intends to use alternate collection methods, pursuant to section 30-67(b), for the imposition, billing, and collection of Fire Assessments for a portion of Fiscal Year 2020-21. The City intends to follow the mailed and published notice requirements of the Uniform Assessment Collection Act for the initial Fire Assessment adoption process to provide appropriate public notice of the Fire Assessments and to facilitate placement of unpaid Fire Assessments on the Assessment Roll for collection under the Uniform Assessment Collection Act in a subsequent year. It is the City's intent that Fire Assessments for future fiscal years will be collected using the Uniform Assessment Collection Act pursuant to section 30-67(a). The City intends to use the Uniform Assessment Collection Act after adoption of a one-time resolution declaring its intent to use the uniform method of collection for non-ad valorem assessments under Section 197.3632, Florida Statutes, following the required advertising and a public hearing, and fulfillment by the City of all other requirements of the Uniform Assessment Collection Act. Nothing in this Ordinance shall require the City to use the Uniform Assessment Collection Act should the City Council determine that an alternate method should be used.

(3) The Fire Assessments to be imposed annually using the procedures provided in this Article shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

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

(c) Legislative Determination of Special Benefit to Property. It is hereby ascertained and declared that the Fire Services, as defined in this Article, provide a special benefit to property within the City based upon the following legislative determinations:

(1) Special assessments for fire protection/fire-rescue services have been found valid by Florida Courts. See for example, Morris v. City of Cape Coral, 163 So.3d 1174

(Fla. 2015); Lake County v. Water Oak Management Corp., 695 So.2d 667 (Fla. 1997); South Trail Fire Control Dist. v. State, 273 So.2d 380 (Fla. 1973); Fire Dist. No. 1 of Marion County v. Jenkins, 221 So.2d 740 (Fla. 1969); and City of North Lauderdale v. SMM Properties, Inc., 825 So.2d 343 (Fla. 2002).

(2) It is hereby ascertained and declared that Fire Services, as defined in this Article, provide special benefit to improved real property because Fire Services possess a logical relationship to the use and enjoyment of property by: (i) protecting and enhancing the value of improvements and structures by providing and otherwise making available Fire Services; (ii) protecting the life and safety of persons in the use and enjoyment of improvements and structures by providing and otherwise making available Fire Services; (iii) lowering the cost of fire insurance by the presence of professional and comprehensive Fire Services within the City and limiting the potential financial liability for uninsured and underinsured properties; and (iv) containing and extinguishing the spread of fire incidents occurring on property, including reducing the threat that fire on vacant or unimproved property will spread and endanger structures and occupants on improved property.

**Sec. 30-63. Initial Proceedings for Imposition of Fire Assessments including Initial Assessment Resolution, Initial Assessment Roll, Notice by Publication and Mail, Final Assessment Resolution and Effect of Final Assessment Resolution.**

(a) Initial Assessment Resolution. The initial proceeding for the imposition of a Fire Assessment shall be the adoption of an Initial Assessment Resolution by the City Council, which Resolution: (i) contains a brief and general description of the Fire Services, facilities, or programs to be provided, (ii) determines the Fire Assessed Cost to be assessed, (iii) describes the method of apportioning the Fire Assessed Cost and the computation of the Fire Assessment for specific properties, (iv) establishes an estimated assessment rate(s) for the upcoming Fiscal Year, (v) establishes a Maximum Assessment Rate, if desired by the City Council, and (vi) directs the City Manager to: (1) prepare the Initial Assessment Roll, as required by Section 30-63(b) hereof, (2) publish the notice required by Section 30-63(c)(1) hereof, and (3) mail the notice required by Section 30-63(c)(2) hereof using information then available from the Tax Roll.

(b) Initial Assessment Roll.

(1) The City Manager shall prepare, or direct the preparation of, the Initial Assessment Roll, which shall contain the following: (i) a summary description of all Assessed Property conforming to the description contained on the Tax Roll, (ii) the name of the Owner of record of the Assessed Property as shown on the Tax Roll, and (iii) the amount of the Fire Assessment to be imposed against each such parcel of Assessed Property.

(2) 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 Assessment for each parcel of property can be determined by use of a computer terminal available to the public or available to City staff that will provide such information to the public.

(c) Notice.

(1) Notice by Publication. 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 Council 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 Council will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve or amend the aforementioned Initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include: (i) a geographic depiction of the property subject to the Fire Assessment; (ii) a brief and general description of the Fire Services, facilities, or programs to be provided; (iii) the rate(s) of assessment including a Maximum Assessment Rate in the event one was adopted; (iv) the procedure for objecting provided in Section 30-64(d) hereof; (v) the method by which the Fire Assessment will be collected; and (vi) a statement that the Initial Assessment Roll is available for inspection at the office of the City Manager and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the City Manager or as otherwise provided.

(2) Notice by Mail. In addition to the published notice required by Section 30-63(c)(1), the City Manager shall provide notice, or direct the provision of notice, of the proposed Fire Assessment by first class mail to the Owner of each parcel of property subject to the Fire Assessment. Such notice shall include: (i) the purpose of the Fire Assessment; (ii) the rate(s) of assessment to be levied against each parcel of property, including a Maximum Assessment Rate in the event one was adopted; (iii) the unit(s) of measurement applied to determine the Fire Assessment; (iv) the number of such units contained in each parcel of property; (v) the total revenue to be collected by the City from the Fire Assessment; (vi) a statement that failure to pay the Fire 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; (vii) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the City Council within 20 calendar days of the notice; and (viii) the date, time, and place of the hearing. 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 Assessment imposed by the City Council pursuant to this Article.

(d) Final Assessment Resolution.

(1) Adoption of Final Assessment Resolution. At the day and time named in such notice, or to which an adjournment or continuance may be taken by the City Council, the City Council shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Council adopt the Final Assessment Resolution which shall: (i) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (ii) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (iii) establish a Maximum Assessment Rate that may be imposed in the event such rate was adopted; (iv) approve the Initial Assessment Roll, with such amendments as it deems just and right; and

(v) determine the method of collection. The adoption of the Final Assessment Resolution by the City Council shall constitute a legislative determination that all parcels assessed derive a special benefit from the Fire Services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the Final Assessment Resolution shall be filed with the City Manager at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year in which Fire Assessments are imposed or reimposed hereunder.

(2) Effect of Final Assessment Resolution. The Fire 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 Maximum Assessment Rate, if any; the Initial Assessment Roll; and the levy and lien of the Fire Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 calendar days from the date of the City Council action on the Final Assessment Resolution. The 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 30-67(b) hereof is used to collect the Fire Assessments, such other official or designee as the City Council by resolution shall determine.

**Sec. 30-64. Annual Proceedings for Imposition of Fire Assessments including Adoption of Preliminary and Annual Assessment Resolutions, Provision of Notice, and Effect of Annual Resolution.**

(a) The City Council shall adopt an Annual Assessment Resolution and assessment roll for each Fiscal Year for which a Fire Assessment is to be imposed hereunder following the initial Fiscal Year of imposition of Fire Assessments.

(b) The initial proceedings for the adoption of an Annual Assessment Resolution shall be the adoption of a Preliminary Assessment Resolution by the City Council: (i) containing a brief and general description of the Fire Services, facilities, or programs to be provided; (ii) determining the Fire Assessed Cost to be assessed for the upcoming Fiscal Year; (iii) establishing the estimated or proposed assessment rate for the upcoming Fiscal Year; (iv) establishing or increasing a Maximum Assessment Rate, if desired by the City Council; (v) 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 Assessment Resolution for the upcoming Fiscal Year; and (vi) directing the City Manager to update the Assessment Roll, provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (f) of this Section 30-64 so require, and 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 Assessment Resolution, the Annual Assessment Resolution shall establish the rate of assessment to be imposed in the

upcoming Fiscal Year and approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the City Council deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, as modified or confirmed by the Final Assessment Resolution, together with modifications, if any, that are provided and confirmed in any applicable Preliminary Assessment Resolution and Annual Assessment Resolution.

(d) Nothing herein shall preclude the City Council from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 30-63(c)(1) and (c)(2) hereof or any other method as provided by law.

(e) The City Council may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Assessment Resolution and confirm such Maximum Assessment Rate in the event notice of such Maximum Rate Assessment has been included in the notices required by Sections 30-63(c)(1) and (c)(2) hereof.

(f) In the event that (i) the proposed Fire Assessment for any Fiscal Year exceeds the rates of assessment adopted by the City Council, including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property pursuant to Sections 30-63(c)(1) and (c)(2) hereof, (ii) the purpose for which the Fire Assessment is imposed or the use of the revenue from the Fire Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 30-63(c)(1) and (c)(2) hereof, (iii) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Fire Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 30-63(c)(1) and (c)(2) hereof, or (iv) 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 30-63(c)(1) and (c)(2) hereof and inform the Owner of the date, time, and place for the adoption of the Annual Assessment 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 Assessment imposed by the City Council pursuant to this Article.

(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 Assessment Resolution, the adoption of the succeeding Annual Assessment 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 establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Fire Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 calendar days from the date of the City Council action on the Annual Assessment Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Assessment not challenged within the required 20-day

period for those Fire 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 Assessment Resolution.

(h) The Assessment Roll, as approved by the Annual 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 30-67(b) hereof is used to collect the Fire Assessments, such other official or contractor as the City Council by resolution shall designate. If the Fire Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

**Sec. 30-65. Lien of Fire Assessments, Revisions to Fire Assessments, Correction of Errors and Omissions, and Immateriality of Procedural Irregularities.**

(a) Lien of Fire Assessments. Upon the adoption of the Assessment Roll, all Fire 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 Assessment shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Assessment Resolution, whichever is applicable. The lien for a Fire 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 Assessment collected under the alternative method of collection provided in Section 30-67(b) shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Assessment Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

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

(c) Correction of Errors and Omissions.

(1) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Manager, City Council, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Assessment imposed by the City Council under the provisions of this Article.

(2) When it shall appear that any Fire Assessment should have been imposed under this Article against a parcel of property specially benefited by the provision of Fire 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 Assessment Resolution for any upcoming Fiscal Year, the City Council 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 30-63(c)(2), impose the applicable Fire Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Assessment due for the prior two Fiscal Years. Such Fire 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 this Article hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(3) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, or at any appropriate time if the City uses an alternative method of collection pursuant to Section 30-67(b), 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 Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire 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 Assessment imposed under the provisions of this Article. 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.

(4) 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.

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

#### **Sec. 30-66. Interim Assessments.**

(a) An interim Fire Assessment may be imposed against all property for which a Building Permit or Certificate of Occupancy, at the discretion of the City Council, is issued after the adoption of the Final Assessment Resolution or Annual Assessment Resolution. The amount of the interim Fire Assessment shall be calculated upon a monthly rate, which

shall be one-twelfth of the annual rate for such property computed in accordance with the Final Assessment Resolution or Annual Assessment Resolution for the Fiscal Year for which the interim Fire Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Fire Assessment may also include an estimate of the subsequent Fiscal Year's Fire Assessment. No Building Permit or Certificate of Occupancy, at the discretion of the City Council, shall be issued until full payment of the interim Fire Assessment is received by the City. Issuance of the Building Permit or Certificate of Occupancy, at the discretion of the City Council, without the payment in full of the interim Fire Assessment shall not relieve the Owner of such property of the obligation of full payment. Any interim Fire Assessment not collected prior to the issuance of the Building Permit or Certificate of Occupancy, at the discretion of the City Council, may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 30-67(a), under the alternative collection method provided in Section 30-67(b), or by any other method authorized by law. Any interim Fire Assessment shall be deemed due and payable on the date the Building Permit or Certificate of Occupancy, at the discretion of the City Council, was issued and shall constitute a lien against such property as of the later issuance 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 Building Permit or Certificate of Occupancy, at the discretion of the City Council.

(b) In the event the City elects to collect the interim Fire Assessments at the time of Building Permit issuance and the Building Permit expires prior to completion of a the Building for which it was issued, and the applicant paid the interim Fire Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Fire Assessment. Failure to timely apply for a refund of the Fire Assessment shall waive any right to a refund. The application for refund shall be filed with the City Manager and contain the following: (i) The name and address of the applicant; (ii) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit; (iii) The date the Fire Assessment was paid; and (iv) The date the Building Permit was issued and the date of expiration. After verifying that the Building Permit has expired and that the Building has not been completed, the City shall refund the interim Fire Assessment paid for such Building.

(c) A Building Permit which is subsequently issued for a Building on the same property which was subject of a refund shall pay the interim Fire Assessment as required by this Section 30-66.

**Sec. 30-67. Methods of Collection.**

(a) Uniform Assessment Collection Method. After the City fulfills preliminary requirements of Section 197.3632, Florida Statutes, for adoption of a Resolution of Intent, the Fire Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act unless otherwise directed by the City Council, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act.

Any hearing or notice required by this Article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law. The amount of a Fire 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 that: (i) 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, (ii) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (iii) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

(b) Alternative Methods of Collection. In lieu of utilizing the Uniform Assessment Collection Act, the City Council may elect to collect the Fire Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(1) The City Council shall provide Fire Assessment bills by first class mail to the Owner of each affected parcel of property. The bill or accompanying explanatory material shall include: (i) a brief explanation of the Fire Assessment, (ii) a description of the unit of measurement used to determine the amount of the Fire Assessment, (iii) the number of units contained within the parcel, (iv) the total amount of the Fire Assessment imposed against the parcel for the appropriate period, (v) the location at which payment will be accepted, (vi) the date on which the Fire Assessment is due, and (vii) a statement that the Fire 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. A general notice of the lien resulting from imposition of the Fire 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.

(2) The City Council shall have the right to foreclose and collect all delinquent Fire 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 Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in accordance with paragraph (b)(1) of this Section. The City Council or its agent shall notify any property owner who is delinquent in payment of his or her Fire Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the City Council or its agent will either: (i) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (ii) cause an amount equivalent to the delinquent Fire Assessment, including any and all interest accrued, late fees and any costs, 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.

(3) 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 Council or its

agent may join in one foreclosure action the collection of Fire 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 Council and its agents, including reasonable attorney fees, in collection of such delinquent Fire Assessments and any other costs incurred by the City Council as a result of such delinquent Fire Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(4) In lieu of foreclosure, any delinquent Fire 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 Article, and (2) any existing lien of record on the affected parcel for the delinquent Fire Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(5) Notwithstanding the City Council'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 30-65(c) hereof.

(6) Any City Council action required in the collection of Fire Assessments may be by resolution.

**Section 3. Codification.** It is the intention of the City Council that the provisions of this Ordinance shall become and be made a part of the City of Ocala Code of Ordinances; and that sections of this Ordinance may be renumbered or relettered and the word *Ordinance* may be changed to *section*, *article*, or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager or his/her designee without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

**Section 4. Severability and Conflicts.** Should any provision or section of this ordinance be held by a Court of competent jurisdiction to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid. All ordinances and resolutions in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect. It is hereby determined and declared that Article III, Chapter 30, the Emergency Fire Service User Fee, with imposition and collection suspended in July, 2020, does not conflict with this Ordinance.

Section 5. Effective Date. This Ordinance take effect upon approval by the Mayor, or upon being law without such approval.

ATTEST:

CITY OF OCALA, FLORIDA

By: Angel B. Jacobs  
Angel B. Jacobs  
City Clerk

By: Justin Grabelle  
~~Jay A. Mustler~~ Justin Grabelle  
President, Ocala City Council

Approved/Denied by me as Mayor of the City of Ocala, Florida, on 12/7, 2020.

By: Reuben Kent Guinn  
Reuben Kent Guinn  
Mayor

Approved as to form and legality:

By: Robert W. Batsel, Jr.  
Robert W. Batsel, Jr.  
City Attorney

Ordinance No: 2021-13  
Introduced: 11/17/2020  
Adopted: 12/1/2020  
Legal Ad No: A000974976 - 11/20/20