

ORDINANCE NO. 2715-07

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, PROGRAMS, AND FACILITIES IN THE CITY OF WINTER PARK, FLORIDA; AUTHORIZING THE IMPOSITION OF A FIRE RESCUE CHARGES AGAINST PROPERTY THROUGHOUT THE CITY OF WINTER PARK, FLORIDA; PROVIDING CERTAIN DEFINITIONS; ESTABLISHING THE PROCEDURES FOR IMPOSING FIRE RESCUE CHARGES; ESTABLISHING THE PROCEDURE FOR COLLECTION OF FIRE RESCUE CHARGES; PROVIDING THAT FIRE RESCUE ASSESSMENTS MAY CONSTITUTE A LIEN ON ASSESSED PROPERTY; PROVIDING THAT A PERFECTED LIEN FOR FIRE RESCUE ASSESSMENTS SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the City Commission of the City of Winter Park, Florida has all the powers of local self government necessary to perform municipal functions and to render municipal services except when prohibited by law, and such municipal power may be exercised by the enactment of legislation in the form of city ordinances; and

WHEREAS, the imposition of fire rescue fees and assessments will provide a more cost effective means for providing fire services to the residents of the City of Winter Park, Florida; and

WHEREAS, the City of Winter Park, Florida is desirous of establishing a method for assessing the cost of fire services in a manner that will insure that there are adequate funds to provide for the level of services deemed necessary and proper to promote the health, safety, and general welfare of its citizens; and

WHEREAS, the City of Winter Park, Florida is desirous of insuring that the cost of fire services are borne on a fair and reasonable basis by the property owners receiving the benefit of said services;

NOW, THEREFORE, BE IT ENACTED by the people of the City of Winter Park, Florida as follows:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and are hereby made a specific part of this Ordinance.

Section 2. The Code of Ordinances of the City of Winter Park, Florida, is hereby amended to read:

Section A. Definitions.

As used in this Ordinance, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

Assessed property means all parcels of land subject to the fire rescue assessment that receive a special benefit from the delivery of the fire rescue services, programs or facilities.

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 or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like for residential purposes.

City manager means the chief administrative officer of the City, designated by the City Commission to be responsible for coordinating fire rescue assessments, or such person's designee.

Fire rescue assessment means a special assessment lawfully imposed by the City Commission against assessed property to fund all or any portion of the cost of the provision of fire rescue services, programs, and facilities 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 rescue assessment rate resolution means the resolution described in Section F(2)(b) establishing the rate at which a fire rescue assessment will be computed.

Fire rescue charge means collectively fire rescue assessments and fire rescue fees.

Fire rescue cost means the amount determined by the City Commission to be charged over a designated time period to fund all or any portion of the cost (as determined by generally accepted accounting practices) of the provision of fire rescue services, facilities, or programs which provide a special benefit to assessed property, and are fairly and reasonably charged to government property for the fire rescue services, facilities, and programs such property receives, and shall include, but not be limited to, the following components:

- (1) The cost of physical construction, reconstruction or completion of any required facility or improvement;
- (2) The costs incurred in any required acquisition or purchase;
- (3) The cost of all labor, materials, machinery, and equipment;
- (4) The cost of fuel, parts, supplies, maintenance, repairs, and utilities;
- (5) The cost of computer services, data processing, and communications;
- (6) The cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever;

- (7) The cost of any indemnity or surety bonds and premiums for insurance;
- (8) The cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (9) The cost of uniforms, training, travel, and per diem;
- (10) The cost of construction plans and specifications, surveys and estimates of costs;
- (11) The cost of engineering, financial, legal, and other professional services;
- (12) The costs of compliance with any contracts or agreements entered into by the city to provide fire rescue services;
- (13) All costs associated with the structure, implementation, collection, and enforcement of the fire rescue charges and amounts necessary to offset discounts received for early payment of fire rescue charges;
- (14) All other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the City Commission by subsequent resolution;
- (15) A reasonable amount for contingency and anticipated delinquencies and uncollectible fire rescue charges; and
- (16) 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 rescue cost.

Fire rescue cost for assessed property means the subset of fire rescue cost fairly and reasonably attributable to nongovernment property.

Fire rescue cost for government property means the subset of fire rescue costs fairly and reasonably attributable to government property.

Fire rescue fee rate resolution means the resolution described in Section E(2)(b) establishing the rate at which a fire rescue fee will be computed.

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

Nongovernment property means all property that is not government property.

Owner means the person reflected as the owner of property on the tax roll or utility bill.

Property appraiser means the property appraiser of the county.

Tax collector means the tax collector of the county.

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 F.S. §§ 197.3632 and 197.3635 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.

Utility means that utility owned and operated by the city, providing electricity, water and wastewater services, solid waste services, natural gas, and stormwater services, or any combination of the foregoing, and billing customers on a monthly or periodic basis.

Utility customer of record means the person or entity assuming responsibility for the payment for services of the utility.

Section B. General findings.

It is hereby ascertained, determined, and declared that:

(1) Pursuant to Article VIII, section 2(b), Florida Constitution, and F.S. §§ 166.021 and 166.041, the City Commission has all powers of local self government necessary to perform municipal functions and to render municipal services except when prohibited by law. Such municipal power may be exercised by the enactment of legislation in the form of city ordinances.

(2) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the state legislature may act, except those subjects described in F.S. §§ 166.021(3)(a), 166.021(3)(b), 166.021(3)(c) and 166.021(3)(d). The subject matter of F.S. §§ 166.021(3)(a), 166.021(3)(b), 166.021(3)(c) and 166.021(3)(d) is not relevant to the imposition of a fire rescue charge.

(3) The purposes of this Ordinance are to:

(a) Provide procedures and standards for the imposition of a city-wide fire rescue charge under the general home rule powers of a municipality to impose special assessments and fees;

(b) Authorize a procedure for the funding of fire rescue services, facilities, or programs providing benefits to property within the City;

(c) Legislatively determine the special benefit provided to assessed property from the combined fire control and emergency medical services by the City under its consolidated fire rescue program; and

(d) Legislatively determine that the fire rescue fee imposed on government property is a fair, reasonable and equitable method for funding the combined fire control and first response emergency medical services by the City under its consolidated fire rescue program.

Section C. Applicability.

This Ordinance and the City Commission's authority to impose assessments and fees pursuant to this article shall be applicable throughout the incorporated areas of the City, as may be amended from time to time.

Section D. Alternative method.

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

(2) Nothing in this Ordinance shall preclude the City Commission from directing and authorizing, by resolution, the combination with each other of:

- (a) Any supplemental or additional notice deemed proper, necessary, or convenient by the City;
- (b) Any notice required by this Ordinance; or
- (c) Any notice required by law, including the Uniform Assessment Collection Act.

(3) Any actions of the City Commission required to be taken by resolution pursuant to this article may be combined into a single resolution and a separate resolution for each action shall not be required.

Section E. Fire rescue fee on government property.

(1) *Legislative declarations as to fire rescue fee on government property.*
It is hereby ascertained and declared that the fire rescue fee as authorized in this article is reasonably related to the cost of providing fire rescue services, facilities and programs to government property. The fire rescue fee is not a special assessment; it is a fee for services available and rendered to government property.

(2) *General authority.*

(a) The City Commission is hereby authorized to impose a fire rescue fee on all government property that is improved by the existence or construction of a building to fund all or any portion of the fire rescue cost for government property at a fair, just, reasonable and equitable rate based upon such property's historical demand and reasonable cost of providing fire rescue and first response emergency medical services to such property.

(b) The rate of the fire rescue fee for each classification of government property shall be determined by a subsequently adopted fire rescue fee rate resolution. The fire rescue fee rate resolution shall determine the fire rescue cost for government property and allocate such cost in a fair, reasonable, just and equitable manner among all government property. The fire rescue fee rate resolution shall also establish the method by which the fire rescue fee will be calculated for each classification of government property.

Section F. Fire rescue assessments on non-government property.

(1) *Legislative declarations as to the existence of special benefit.* It is further hereby ascertained and declared that the fire rescue services, facilities, and programs provide a special benefit to non-government property that is improved by the existence or construction of a building based upon the following legislative determinations:

(a) Fire rescue services possess a logical relationship to the use and enjoyment of improved property by:

- i. Protecting the value of the improvements and structures through the provision of available fire rescue services;
- ii. Protecting the life and safety of intended occupants in the use and enjoyment of improvements and structures within improved parcels;
- iii. Lowering the cost of fire insurance by the presence of a professional and comprehensive fire rescue program within the City; and
- iv. Containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.

(b) The combined fire control and first response emergency medical services of the City under its existing consolidated fire rescue program enhances and strengthens the relationship of such services to the use and enjoyment of buildings within improved parcels of property within the areas served by the City.

(c) Within the areas served by the City, the combined fire control and first response emergency medical services of the City under its existing consolidated fire rescue program enhance the value of business and commercial property that is improved by the existence or construction of a building, which enhanced value can be anticipated to be reflected in the rental charge or value of such business or commercial property.

(2) *General authority.*

(a) The City Commission is hereby authorized to impose a fire rescue assessment to fund all or any portion of the fire rescue cost for assessed property upon benefitted non-government property at a rate of assessment based on

the special benefit accruing to such property from the City's provision of fire rescue services, facilities, or programs.

(b) All fire rescue assessments shall be imposed in a subsequently adopted fire rescue assessment rate resolution. Such fire rescue assessment rate resolution shall determine the amount of the fire rescue assessment against assessed property pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the fire rescue cost for assessed property among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds.

Section G. Collection.

(1) Collection of fire rescue charges on the utility bill.

(a) The fire rescue charge may be billed to and collected on a monthly basis along with the City's utility in the regular utility billing cycle, appearing as a separate line item.

(b) The utility customer of record and the owner of such property subject to a fire rescue charge are responsible for payment of the fire rescue charge as the charge is either a fire rescue fee on government property which is in exchange for services and facilities furnished to such property to manage and control the fire rescue burden generated by the use and development of such property, or alternatively, the charge is a fire rescue assessment on non-government property for which the property receives a special benefit from the provision of fire rescue services, facilities and programs by the City.

(c) Bills for the fire rescue charge shall be payable at the same time, in the same manner, and subject to the same penalties as have been heretofore established for other utility fees charged and administered by the City. The owner and utility customer of record shall be notified of any deficiency in the payment of the fire rescue charge in the same manner as other delinquent utility bills. The failure to pay such a fire rescue charge shall subject the property to the discontinuance of other utility services and all other penalties and charges available under law relative to the discontinuance of such utility services. The administrative appeal and hearing procedure applicable to the discontinuance of other utility services in the City shall be applicable to the discontinuance of such services for any delinquencies resulting under this Ordinance.

(d) Notwithstanding the provisions of this section, the City may make alternative collection arrangements with property owners or tenants or both for the payment of the fire rescue charge.

(2) *Alternative method of collection of fire rescue assessments.* In lieu of utilizing the utility bill, the City Commission may elect to collect fire rescue assessments by the Uniform Assessment Collection Act or any other method which

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

(a) The City shall provide fire rescue assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:

- i. A brief explanation of the fire rescue assessment;
- ii. A description of the unit of measurement used to determine the amount of the fire rescue assessment;
- iii. The number of units contained within the parcel;
- iv. The total amount of the fire rescue 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 rescue assessment is due; and
- vii. A statement that the fire rescue assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(b) A general notice of the lien resulting from imposition of the fire rescue assessments shall be recorded in the official records of the county. Nothing in this article shall be construed to require that individual liens or releases be filed in the official records.

(c) The City shall have the right to collect all delinquent fire rescue assessments in the manner provided for the delinquent utility bills or in any 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.

(d) A fire rescue assessment shall become delinquent if it is not paid within 60 days from the date any installment is due. The City or its agent shall notify any property owner who is delinquent in payment of his fire rescue assessment within 90 days from the date such assessment was due. Such notice shall state in effect that the City 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 rescue 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 rescue assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(e) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described in this article shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as any person. The City or its agent may join in one foreclosure action for the collection of fire rescue assessments against any or all property assessed in accordance with the provisions of this Ordinance. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent fire rescue assessments and any other costs incurred by the City as a result of such delinquent fire rescue assessments and the costs shall be collectible as a part of or in addition to, the costs of the action.

(f) In lieu of foreclosure, any delinquent fire rescue assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (i) notice is provided to the owner in the manner required by the Uniform Assessment Collection Act and this Ordinance, and (ii) any existing lien of record on the affected parcel for the delinquent fire rescue assessment is supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.

(g) Notwithstanding the City's use of an alternative method of collection, the City Manager shall have the same power and authority to correct errors and omissions as provided to him or other city officials in subsection (3) of this section.

(h) Any City Commission action required in the collection of fire rescue assessments may be by resolution.

(3) Correction of errors and omissions.

(a) No act of error or omission on the part of the City Manager, City Commission, or their deputies or employees, shall operate to release or discharge any obligation for payment of a fire rescue charge imposed by the City Commission under the provision of this Ordinance.

(b) When it shall appear that any fire rescue charge should have been imposed under this article against property specially benefitted by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the bill, the City may impose the applicable fire rescue charge against the property for which such error is discovered, in addition to the applicable fire rescue charge due for the prior 24 months. Such delinquent fire rescue charge may be collected as provided for the collection of other charges on the utility bill, or may be collected as provided in the Uniform Assessment Collection Act, or may be collected as 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, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

Section 3. It is the intention of the City Commission of the City of Winter Park that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be numbered or renumbered or lettered or relettered and the word "ordinance" may be changed to "chapter", "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 numbered or renumbered or lettered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

Section 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.


Section 5. If any section, subsection, sentence, clause, phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses or phrases under application shall not be affected thereby.

Section 6. This Ordinance shall become effective immediately upon the final passage and adoption of this Ordinance.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the 11th day of June, 2007.

Attest:


City Clerk


Mayor, David C. Strong