

ORDINANCE 2010-10

AN ORDINANCE OF THE CITY OF LAKE WALES, FLORIDA, ESTABLISHING CHAPTER 17.5, SPECIAL ASSESSMENTS; ESTABLISHING ARTICLE I, STREET LIGHTING ASSESSMENTS; DEFINING TERMS RELATING TO THE STREET LIGHTING ASSESSMENT PROGRAM; PROVIDING FOR INTERPRETATION; PROVIDING GENERAL FINDINGS; PROVIDING LEGISLATIVE DETERMINATION OF STREET LIGHTING SPECIAL BENEFIT TO PROPERTY; PROVIDING GENERAL AUTHORITY FOR IMPOSITION OF STREET LIGHTING ASSESSMENTS; ESTABLISHING INITIAL PROCEEDINGS FOR IMPOSITION OF STREET LIGHTING ASSESSMENTS; PROVIDING FOR THE INITIAL ASSESSMENT ROLL; PROVIDING FOR NOTICE BY PUBLICATION AND NOTICE BY MAIL; PROVIDING FOR ADOPTION OF THE FINAL ASSESSMENT RESOLUTION; PROVIDING FOR EFFECT OF FINAL ASSESSMENT RESOLUTION; PROVIDING A PROCESS FOR ADOPTION OF ANNUAL ASSESSMENT RESOLUTION; PROVIDING FOR A LIEN ON ASSESSED PROPERTY; PROVIDING FOR REVISIONS TO STREET LIGHTING SPECIAL ASSESSMENTS; PROVIDING FOR IMMATERIALITY OF PROCEDURAL IRREGULARITIES; PROVIDING FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING FOR INTERIM ASSESSMENTS; PROVIDING FOR A METHOD OF COLLECTION; PROVIDING FOR ALTERNATIVE METHODS OF COLLECTION; PROVIDING FOR COLLECTION FROM GOVERNMENT PROPERTY; PROVIDING FOR APPLICABILITY; PROVIDING THAT METHODS IN CHAPTER 17.5 ARE ALTERNATIVE AND ADDITIONAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Florida:

SECTION 1. Lake Wales Code of Ordinances is hereby amended as follows to establish a new Chapter 17.5, Special Assessments:

CHAPTER 17.5. SPECIAL ASSESSMENTS

ARTICLE I. STREET LIGHTING ASSESSMENTS

DIVISION I. GENERAL PROVISIONS

Sec. 17.5-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Annual rate resolution means the resolution described in section 17.5-13, establishing the rate at which a street lighting assessment for a specific fiscal year will be computed. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which a street lighting assessment is imposed or reimposed.

Assessed property means all parcels of land included on the assessment roll that receive a special benefit from the delivery of the street lighting services, programs or facilities identified in the initial assessment resolution or the preliminary rate resolution.

Assessment roll means the special assessment roll relating to a street lighting assessment approved by a final assessment resolution pursuant to section 17.5-11 or an annual rate resolution pursuant to section 17.5-13.

Final assessment resolution means the resolution described in section 17.5-11, which shall confirm, modify or repeal the initial assessment resolution and which shall be the final proceeding for the initial imposition of street lighting assessments.

Fiscal year means that period commencing October 1 of each year and continuing through the next succeeding September 30, 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 of its agencies, a sovereign state or nation, the State of Florida or any of its agencies, a county, a special district or a municipal corporation.

Initial assessment resolution means the resolution described in section 17.5-7, which shall be the initial proceeding for the identification of the street lighting assessed cost for which an assessment is to be made and for the imposition of a street lighting assessment.

Owner means 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 rate resolution means the resolution described in section 17.5-13 initiating the annual process for updating the assessment roll and directing the reimposition of street lighting assessments pursuant to an annual rate resolution.

Property appraiser means the property appraiser of the county.

Street lighting assessed cost means the amount determined by the city commission to be assessed in any fiscal year to fund all or any portion of the cost of the provision of street lighting services, facilities or programs, which provide a special benefit to assessed property, 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 in the land, 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 construction plans and specifications, surveys and estimates of costs.
- (9) The cost of engineering, financial, legal and other professional services.
- (10) The costs of compliance with any contracts or agreements entered into by the city to provide street lighting services.
- (11) All costs associated with the structure, implementation, collection and enforcement of the street lighting assessments, including any service charges of the tax collector, or property appraiser and amounts necessary to offset discounts received for early payment of street lighting assessments pursuant to the Uniform Assessment Collection Act or for early payment of street lighting assessments collected pursuant to section 17.5-21.
- (12) All other costs and expenses necessary or incidental to the acquisition, provision or construction of street lighting 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.
- (13) A reasonable amount for contingency and anticipated delinquencies and uncollectible street lighting assessments; and 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 street lighting assessed cost. If the city also imposes an impact fee upon new growth or development for street lighting related capital improvements, the street lighting assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development.

Street lighting assessment means a special assessment lawfully imposed by the city against assessed property to fund the street lighting assessed cost imposed to fund all or any portion of the cost of the provision of street lighting 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 property identified in the initial assessment resolution or the preliminary rate resolution. Compliance as defined in Florida Statute, Chapter 170, or any successor statutes relating to special assessments.

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 under such statutes.

Sec. 17.5-2. General findings.

(a) Pursuant to Fla. Const., art. VIII, § 2(b), and F.S. §§ 166.021 and 166.041, the city commission has all powers of local self-government necessary to perform municipal functions and render municipal

services except when prohibited by law; and such power may be exercised by the enactment of legislation in the form of city ordinances.

(b) 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)--(d). The subject matter of F.S. § 166.021(3)(a)--(d), are not relevant to the imposition of assessments related to street lighting services, facilities or programs of the city.

(c) The purpose of this article is to:

- (1) Provide procedures and standards for the imposition of home street lighting assessments in the city under the general home rule powers of a municipality to impose special assessments;
- (2) Authorize a procedure for the funding of home owner association street lighting services, facilities or programs providing special benefits to property within the city; and
- (3) Legislatively determine the special benefit provided to assessed home owner association property from the provision of street lighting.

(d) The annual street lighting assessments to be imposed pursuant to this article shall constitute non-ad-valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(e) The street lighting assessment imposed pursuant to this article is imposed by the city, not the county board of county commissioners, property appraiser or tax collector. Any activity of the property appraiser or tax collector under the provisions of this article shall be construed as ministerial.

Sec. 17.5-3. Legislative determinations of special benefit.

(a) It is ascertained and declared that the street lighting services, facilities and programs of the city provide a special benefit to assessed property within a street lighting district in the city based upon the following legislative determinations:

(b) The provision of streetlights within a special street lighting district provides greater safety to the occupants and users of the properties within the district and stabilizes and reduces insurance rates and enhances property values for occupants and users of the properties assessed for such services.

Sec. 17.5-4. Applicability.

This article and the city's authority to impose assessments pursuant to this article shall be applicable throughout the city.

Sec. 17.5-4.5. Landowner Petition Procedures

The Commission may establish a procedure pursuant to which the owners of property located within the City may petition for creation of a Street Lighting Assessment Area to fund Local Improvements. Notwithstanding the petition procedure established pursuant to this Section 17.5-4.5, the Commission shall retain the authority to create Assessment Areas without a landowner petition.

Sec. 17.5-5. Alternative method.

(a) This article shall be deemed to provide an additional and alternative method for the doing of the things authorized by this article 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 that may come into existence. This article, being necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect its purposes.

(b) Nothing in this article shall preclude the city commission from directing and authorizing, by resolution, the combination with each other of any:

- (1) Supplemental or additional notice deemed proper, necessary or convenient by the city;
- (2) Notice required by this article; or
- (3) Notice required by law, including the Uniform Assessment Collection Act.

DIVISION 2. ANNUAL ASSESSMENTS

Sec. 17.5-6. General authority.

(a) The city commission is authorized to impose an annual street lighting assessment to fund all or any portion of the street lighting assessed cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the city's provision of street lighting services, facilities or programs. All street lighting assessments shall be imposed in conformity with the procedures set forth in this division.

(b) The amount of the street lighting assessment imposed in a fiscal year against a parcel of assessed property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the street lighting assessed cost among properties on a basis reasonably related to the special benefit provided by street lighting services, facilities or programs funded with assessment proceeds. Nothing contained in this section shall be construed to require the imposition of street lighting assessments against government property.

Sec. 17.5-7. Initial proceedings.

The initial proceeding for the imposition of a street lighting assessment shall be the adoption of an initial assessment resolution by the city commission:

- (1) Containing a brief and general description of the street lighting services, facilities or programs to be provided;
- (2) Estimating the street lighting assessed cost to be assessed;
- (3) Describing the method of apportioning the street lighting assessed cost and the computation of the street lighting assessment for specific properties;
- (4) Providing a summary description of the parcels of property (conforming to the description contained on the tax roll) located within the city that receive a special benefit from the provision of street lighting services, facilities or programs, or describing a specific geographic area in which such service, facility or program will be provided;
- (5) Establishing an assessment rate for the upcoming fiscal year; and
- (6) Directing the city manager to:
 - a. Prepare the initial assessment roll, as required by section 17.5-8;
 - b. Publish the notice required by section 17.5-9; and
 - c. Mail the notice required by section 17.5-10, using information then available from the tax roll.

Sec. 17.5-8. Initial assessment roll.

(a) The city manager shall prepare or direct the preparation of the initial assessment roll, which shall contain the following:

- (1) A summary description of all assessed property conforming to the description contained on the tax roll.
- (2) The name of the owner of the assessed property.
- (3) The amount of the street lighting assessment to be imposed against each such parcel of assessed property.

(b) 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 street lighting assessment for each parcel of property can be determined by use of a computer terminal available to the public.

Sec. 17.5-9. 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 commission 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 commission will hear objections of all interested persons to the final assessment resolution, which shall establish the rate of assessment and approve the initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:

- (1) A geographic depiction of the property subject to the street lighting assessment;
- (2) A brief and general description of the street lighting services, facilities or programs to be provided;
- (3) The rate of assessment;
- (4) The procedure for objecting provided in section 17.5-11;
- (5) The method by which the street lighting assessment will be collected; and
- (6) A statement that the initial assessment roll is available for inspection at the office of the city clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the city clerk.

Sec. 17.5-10. Notice by mail.

(a) In addition to the published notice required by section 17.5-9, the city manager shall provide or direct the provision of notice of the proposed street lighting assessment by first class mail to the owner of each parcel of property (except government property) subject to the street lighting assessment. Such notice shall include:

- (1) The purpose of the street lighting assessment;
- (2) The rate of assessment to be levied against each parcel of property;
- (3) The unit of measurement applied to determine the street lighting assessment;
- (4) The number of such units contained in each parcel of property;
- (5) The total revenue to be collected by the city from the street lighting assessment;
- (6) A statement that failure to pay the street lighting 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;

- (7) A statement that all affected owners have a right to appear at the hearing and to file written objections with the city commission within 20 days of the notice; and
- (8) The date, time and place of the hearing.

(b) 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 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 street lighting assessment imposed by the city commission pursuant to this article.

Sec. 17.5-11. Adoption of final assessment resolution.

(a) At the time named in the notice pursuant to section 17.5-10 or to which an adjournment or continuance may be taken by the city commission, the city commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the city commission, adopt the final assessment resolution, which shall:

- (1) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city commission;
- (2) Establish the rate of assessment to be imposed in the upcoming fiscal year;
- (3) Approve the initial assessment roll, with such amendments as it deems just and right; and
- (4) Determine the method of collection.

(b) The adoption of the final assessment resolution by the city commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the street lighting services, facilities or programs to be provided or constructed and a legislative determination that the street lighting assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the final assessment resolution shall be made in writing and filed with the city manager at or before the time or adjourned time of such hearing. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which street lighting assessments are imposed or reimposed under this article.

Sec. 17.5-12. Effect of final assessment resolution.

The street lighting 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 initial assessment roll, and the levy and lien of the street lighting assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the final assessment resolution. The initial 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 17.5-21 is used to collect the street lighting assessments, such other official as the city commission by resolution shall designate.

Sec. 17.5-13. Adoption of annual rate resolution.

(a) The city commission shall adopt an annual rate resolution during its budget adoption process for each fiscal year following the initial fiscal year for which a street lighting assessment is imposed under this article.

(b) The initial proceedings for the adoption of an annual rate resolution shall be the adoption of a preliminary rate resolution by the city commission:

- (1) Containing a brief and general description of the street lighting services, facilities or programs to be provided;
- (2) Estimating the street lighting assessed cost to be assessed for the upcoming fiscal year;
- (3) Establishing the assessment rate for the upcoming fiscal year;
- (4) 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 rate resolution for the upcoming fiscal year; and
- (5) Directing the city manager to:
 - a. Update the assessment roll;
 - b. Provide notice by publication and first class mail to affected owners in the event circumstances described in subsection (f) of this section so require; and
 - c. Directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the city.

(c) The annual rate resolution shall:

- (1) Establish the rate of assessment to be imposed in the upcoming fiscal year; and
- (2) Approve the assessment roll for the upcoming fiscal year with such adjustments as the city commission deems just and right.

The assessment roll shall be prepared in accordance with the method of apportionment set forth in the initial assessment resolution, together with modifications, if any, and as confirmed in the final assessment resolution or as provided in the preliminary rate resolution.

(d) Nothing in this section shall preclude the city commission from providing annual notification to all owners of assessed property in the manner provided in section 17.5-9 or 17.5-10.

(e) Nothing in this section shall preclude the city commission from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to sections 17.5-9 and 17.5-10.

(f) If:

- (1) The proposed street lighting assessment for any fiscal year exceeds the maximum rate of assessment adopted by the city commission and included in notice previously provided to the owners of assessed property pursuant to sections 17.5-9 and 17.5-10;
- (2) The method of apportionment is changed or the purpose for which the street lighting assessment is imposed is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 17.5-9 and 17.5-10;
- (3) Assessed property is reclassified in a manner that results in an increased street lighting assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 17.5-9 and 17.5-10; or

- (4) An assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year;

then notice shall be provided by publication and first class mail to the owners of such assessed property. Such notice shall substantially conform with the notice requirements set forth in sections 17.5-9 and 17.5-10 and inform the owner of the date, time and place for the adoption of the annual rate 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 street lighting assessment imposed by the city commission 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 rate resolution, the adoption of the succeeding annual rate 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 assessment roll, and the levy and lien of the street lighting assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the annual rate resolution. Nothing contained in this subsection shall be construed or interpreted to affect the finality of any street lighting assessment not challenged within the required 20-day period for those street lighting assessments 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 rate resolution.

(h) The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in section 17.5-21 is used to collect the street lighting assessments, such other official as the city commission by resolution shall designate. If the street lighting assessment against any property shall be sustained, reduced or abated by the court, an adjustment shall be made on the assessment roll.

Sec. 17.5-14. Lien of street lighting assessments.

Upon the adoption of the assessment roll, all street lighting 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 street lighting assessment shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable. The lien for a street lighting 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 street lighting assessment collected under the alternative method of collection provided in section 17.5-21 shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable, and shall attach to the property on such date of adoption.

Sec. 17.5-15. Revisions to street lighting assessments.

If any street lighting 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 commission is satisfied that any such street lighting assessment is so irregular or defective that it cannot be enforced or collected, or if the city commission has omitted any property on the assessment roll, which property should have been so included, the city commission may take all necessary steps to impose a new street lighting assessment against any property benefited by the street lighting assessed costs, following as nearly as may be practicable the provisions of this article; and if such second street lighting assessment is annulled, vacated

or set aside, the city commission may obtain and impose other street lighting assessments until a valid street lighting assessment is imposed.

Sec. 17.5-16. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any street lighting assessment under the provisions of this article shall not affect the validity of the assessment after its approval, and any street lighting assessment as finally approved shall be competent and sufficient evidence that such street lighting assessment was duly levied, that the street lighting assessment was duly made and adopted, and that all other proceedings adequate to such street lighting assessment were duly had, taken and performed as required by this article; and no variance from these directions shall be held material unless it be clearly shown that the party objecting was materially injured.

Sec. 17.5-17. Correction of errors and omissions.

(a) No act of error or omission on the part of the property appraiser, tax collector, city manager, city commission, their deputies or employees, shall operate to release or discharge any obligation for payment of a street lighting assessment imposed by the city commission under the provision of this article.

(b) When it shall appear that any street lighting assessment should have been imposed under this article against a parcel of property specially benefited by the provision of street lighting services, facilities or programs, but that such property was omitted from the assessment roll 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 rate resolution for any upcoming fiscal year, the city commission may, upon provision of a notice by mail provided to the owner of the omitted parcel in the manner and form provided in section 17.5-10, impose the applicable street lighting assessment for the fiscal year in which such error is discovered, in addition to the applicable street lighting assessment due for the prior two fiscal years. Such street lighting 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; and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(c) Prior to the delivery of the assessment roll to the tax collector in accordance with the Uniform Assessment Collection Act, the city manager shall have the authority at any time, upon his own initiative or in response to a timely filed petition from the owner of any property subject to a street lighting assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the street lighting 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 street lighting 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.

(d) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections 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.

Sec. 17.5-18. Dissolution of street lighting districts.

Street lighting assessments created under the provisions of this article may be dissolved by resolution in the event a home owners association is willingly and legally able to maintain the existing street lighting district continuously in a safe and efficient manner.

DIVISION 3. COLLECTION AND USE

Sec. 17.5-19. Method of collection.

(a) Unless otherwise directed by the city commission, the street lighting assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act; 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.

(b) The amount of a street lighting assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefited 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:

- (1) 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;
- (2) Notice is provided to the owner as required under the Uniform Assessment Collection Act; and
- (3) Any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such street lighting assessment upon certification of a non-ad-valorem roll to the tax collector by the city.

Sec. 17.5-20. Alternative method of collection.

(a) In lieu of utilizing the Uniform Assessment Collection Act, the city may elect to collect the street lighting assessments by any other method authorized by law or under the alternative collection method provided by this section.

(b) The city shall provide street lighting 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:

- (1) A brief explanation of the street lighting assessment;
- (2) A description of the unit of measurement used to determine the amount of the street lighting assessment;
- (3) The number of units contained within the parcel;
- (4) The total amount of the street lighting assessment imposed against the parcel for the appropriate period;
- (5) The location at which payment will be accepted;
- (6) The date on which the street lighting assessment is due; and
- (7) A statement that the street lighting 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.

(c) A general notice of the lien resulting from imposition of the street lighting assessments shall be recorded in the official records of the county. Nothing in this subsection shall be construed to require that individual liens or releases be filed in the official records.

(d) The city shall have the right to foreclose and collect all delinquent street lighting 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 street lighting assessment shall become delinquent if it is not paid within 30 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 street lighting assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will either:

- (1) Initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent street lighting assessment in a method provided by law for foreclosure of mortgages on real property; or
- (2) Cause an amount equivalent to the delinquent street lighting 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's fees and title search expenses, related to any foreclosure action as described in this section shall be included in any judgment or decree rendered in such action. 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 the collection of street lighting assessments against any or all property assessed in accordance with the provisions of this section. 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's fees, in collection of such delinquent street lighting assessments and any other costs incurred by the city as a result of such delinquent street lighting assessments and the costs shall be collectible as a part of or in addition to the costs of the action.

(g) In lieu of foreclosure, any delinquent street lighting assessment and the costs, fees and expenses attributable to such assessment, may be collected pursuant to the Uniform Assessment Collection Act; however:

- (1) Notice must be 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 street lighting assessment is supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.

(h) 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 county officials in section 17.5-17.

(i) Any city commission action required in the collection of street lighting assessments may be by resolution.

Sec. 17.5-22. Government property.

(a) If street lighting assessments are imposed against government property, the city shall provide street lighting assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include:

- (1) A brief explanation of the street lighting assessment;
- (2) A description of the unit of measurement used to determine the amount of the street lighting assessment;
- (3) The number of units contained within the parcel;
- (4) The total amount of the parcel's street lighting assessment for the appropriate period;
- (5) The location at which payment will be accepted; and
- (6) The date on which the street lighting assessment is due.

(b) Street lighting assessments imposed against government property shall be due on the same date as all other street lighting assessments and, if applicable, shall be subject to the same discounts for early payment.

(c) A street lighting assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city shall notify the owner of any government property that is delinquent in payment of its street lighting assessment within 60 days from the date such assessment was due. Such notice shall state that the city will initiate a mandamus or other appropriate judicial action to compel payment.

(d) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any mandamus or other action as described in this section shall be included in any judgment or decree rendered in such action. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney's fees, in collection of such delinquent street lighting assessments and any other costs incurred by the city as a result of such delinquent street lighting assessments; and the costs shall be collectible as a part of or in addition to the costs of the action.

SECTION 2. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, the deletion of which would not adversely affect (in the general sense) the remainder, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared to be invalid, and in doing so, the court shall attempt to adhere to the legislative intent.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective upon passage and adoption.

CERTIFIED AS TO PASSAGE this 18th day of May, 2010.

ATTEST:

Clara VanBlargan
Clara VanBlargan, City Clerk

[Signature]
Mayor/Commissioner
City of Lake Wales, Florida