

SPECIAL ASSESSMENT LIENS FOR NUISANCE ABATEMENT AND PROPERTY MAINTENANCE, ETC.

ORDINANCE NO. 2009-4155

An ordinance of the City Commission of the City of Sanford relating to special assessments upon real property which requires lot clearing, real property maintenance or nuisance abatement activities to be conducted by the City which activities provide for a special benefit to the real property; providing for actions and efforts by the City at public expense relating to the maintenance of real property and nuisance abatement; providing for processes and procedures relating to the collection of special assessments resulting from City activities pertaining to the lot clearing, real property maintenance or and nuisance abatement; providing for legislative findings and intent; providing for a form of a municipal special assessment lien; providing for implementing administrative actions; providing for conflicts; providing for a savings provision; providing for codification in the *City Code*; providing for severability and providing for an effective date.

Whereas, the City Commission of the City of Sanford desires to protect the public health, safety and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

Whereas, the City of Sanford from time-to-time accomplishes property maintenance and nuisance abatement activities on private property which activities provide a special benefit to the properties on which such activities occur; and

Whereas, it is not fair or equitable for the citizens of the City of Sanford to pay for City activities benefiting private properties without subsequently being reimbursed for such activities; and

Whereas, the holdings of various appellate courts of the State of Florida uphold diverse special assessment programs when the requisite special benefit is provided to real property; and

Whereas, this Ordinance is enacted pursuant to the home rule powers of the City of Sanford as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*; and other applicable controlling law.

Now, therefore, be it enacted by the People of the City of Sanford, Florida:

Section 1. Legislative findings and intent. A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). The City Commission of the City of Sanford hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, the City staff report and City Commission agenda memorandum relating this Ordinance.

(b). The City of Sanford has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(c). Although not a land development regulation, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Sanford*.

Section 2. Special assessment of costs relating to activities by the City to abate nuisances on real property. A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). A special assessment district is hereby established within the City Limits of the City of Sanford to provide that special assessments may be assessed against real property that is maintained by the City under the provisions of the codes and ordinances of the City if the owner of real property fails to maintain real property as required in this Code. Such activities for which assessments will relate include, but are not limited to, lot clearing and nuisance abatement.

(b). If real property is secured by locks or otherwise, the City shall have the authority to enter said property for purposes of maintaining the property and any additional costs incurred by the City in gaining access to the property or in re-securing the real property after property maintenance or nuisance abatement activities shall be considered assessable expenses of providing maintenance.

(c). Upon completion of the property maintenance or nuisance abatement activities by the City, the City shall mail an invoice to the real property owner requesting payment to the City for the actual costs of the completed maintenance or nuisance abatement in addition to administrative charges and fees in effect at the time of the mailing of the invoice. The real property owner shall pay the amount of the invoiced charges within thirty (30) days of the invoice date.

(d). If the real property owner fails to pay the charges within thirty (30) days, the City shall cause a resolution to be prepared designating the name and address of the owner, a description of the real property, and the charges to be assessed against the real property. The resolution shall be presented to the City Commission by the City Manager and, upon approval of the resolution by the City Commission, the costs stated in the resolution shall be and constitute a municipal special assessment against the real property and shall be and remain a lien against the real property with priority over all other liens, save and except taxes. The assessment shall be payable at the time and in the manner as stated in such resolution. If not paid, a municipal special assessment lien document relating specifically to the property shall be recorded in addition to the recording of the resolution.

(e). Upon completion of the maintenance or nuisance abatement activities and the approval of the special assessment resolution by the City Commission, the City

Manager shall cause to be published a notice directed to the property owners of the real property benefited by the City's maintenance or nuisance abatement activities which notice designates a time and place where complaints will be heard with reference to such special assessments and when such special assessments will be finally approved and confirmed by the City Commission. A copy of such notice shall be served upon such real property owners affected thereby, which shall be served by mailing, by certified or registered mail, a copy of such notice to each of such property owners at the owner's last known address as same appear on the records of the Seminole County Property Appraiser.

(f). At the time and place designated in the notice provided in Subsection (e), the City Commission shall meet as an equalizing board to hear and consider any and all complaints as to such special assessments and shall adjust and equalize the special assessments, and when so equalized and approved, such special assessments shall stand confirmed and be and remain legal, valid and binding liens upon the real property against which such special assessments are made until paid. If a modification of a special assessment occurs, a revised resolution and municipal special assessment lien shall be recorded detailing such modification.

Section 3. Form of municipal special assessment lien. A new section of the *City Code of the City of Sanford* is created to read as follows:

The following document, in substantially the following form, shall be used by the City relative to the establishment of municipal special assessment liens:

Tax and Identification Number: _____

Prepared by: *Name of Preparer*
 Address of Preparer
 City, State, and Zip Code of Preparer

Return Recorded *Name of person to return to*
Document to: *Address of person to return to*
 City, State, and Zip Code of person to return to

**MUNICIPAL SPECIAL ASSESSMENT LIEN FOR SERVICES
PROVIDED TO PROPERTY**

WHEREAS, _____, whose mailing address is _____, is/are the recorded owner or owners of the hereinafter described real property located at _____, Seminole County, Florida, Tax Parcel Identification Number _____; and

WHEREAS, pursuant to City of Sanford Ordinance Number XXXX-XX (or codified section number) City activities relating to (lot clearing/property maintenance/the abatement of public nuisances/etc.) occurred on said property on _____; and

WHEREAS, appropriate notice was provided to the property owner(s) in accordance with the controlling provisions of law and no action or inadequate action was taken to (lot clearing/property maintenance/abatement of the nuisance conditions) on said property within the time allotted; and

WHEREAS, the City of Sanford (accomplished such work/maintenance/abated said nuisance(s)) on, _____ at a cost to the public and in a manner, which specially benefited the subject property.

WHEREAS, pursuant to the controlling provisions of law, the City of Sanford has calculated and

invoiced the costs of the (work/maintenance/abatement) and administrative charges payable to the City and sent, by certified mail, a copy of the invoice to the property owner(s) on _____; and

WHEREAS, the invoice was not paid as of the date of this Municipal Special Assessment Lien; and

WHEREAS, the City of Sanford finds and determines all conditions precedent to the levying of this Municipal Special Assessment Lien on the subject real property have been accomplished and that the sums assessed are fair, equitable, equalized and attributable to the special benefit deriving to the subject property and its owner(s).

NOW, THEREFORE, the City of Sanford imposes a Municipal Special Assessment Lien as follows:

- 1.) In the amount of \$ _____ for the costs of (lot clearing/maintenance/nuisance abatement).
- 2.) Plus \$ _____ for administrative charges.
- 3.) Total amount of \$ _____ and said total sum, is hereby levied against the following described real property in the City of Sanford, Seminole County, to wit:

TAX IDENTIFICATION PARCEL NUMBER: _____

PROPERTY ADDRESS: _____

LEGAL DESCRIPTION: _____

_____.

DONE and ORDERED this _____ day of _____, 200_.

Mayor or City Manager
City of Sanford

Attest:

City Clerk

Section 4. Implementing Administrative Actions. A new section of the *City Code of the City of Sanford* is created to read as follows:

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the correction of amounts assessed and similar matters.

Section 5 Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 6. Savings.

The prior actions of the City of Sanford relating to the assessment of liens by the

City are hereby ratified and affirmed.

Section 7. Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

Section 8. Codification.

This Ordinance shall be codified in the *City Code of the City of Sanford*; provided, however, that Sections 5, 6, 7, 8 and 9 shall not be codified. The Code Codifier is granted broad and liberal authority to change section numbers in the current *City Code* and other appropriate actions as set forth in Section 1-10 of the *City Code*.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon passage and adoption.

Passed and adopted this ____ day of _____, 2009.

**City Commission of the City of
Sanford, Florida
Seminole County, Florida**

Linda Kuhn, Mayor

Attest:

Janet Dougherty, City Clerk

Approved as to form and
legality:

William L. Colbert, Esquire
City Attorney

Certificate

I, Janet R. Dougherty, City Clerk of the City of Sanford, Florida, do hereby certify

that a true and correct copy of the foregoing Ordinance No. _____, Passed and Adopted by the City Commission of the City of Sanford, Florida, on the _____ day of _____, 2009, was posted at the front door of the City Hall in the City of Sanford, Florida, on the _____ day of _____, 2009.

Janet R. Dougherty
