

ORDINANCE NO. 2023-006

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA, AMENDING CHAPTER 24 OF THE TOWN'S CODE OF ORDINANCES ENTITLED "TAXATION AND FINANCE," TO CREATE A NEW ARTICLE IV ENTITLED "FIRE PROTECTION SPECIAL ASSESSMENT," TO AUTHORIZE THE LEVY, COLLECTION AND ENFORCEMENT OF A FIRE PROTECTION SPECIAL ASSESSMENT IN THE TOWN; CREATING NEW SECTIONS IN THE TOWN CODE OF ORDINANCES AS FOLLOWS: SECTION 24-110 ENTITLED "INTENT," SECTION 24-111, ENTITLED "FINDINGS OF SPECIAL BENEFIT," SECTION 24-112, ENTITLED "AUTHORITY," SECTION 24-113, ENTITLED "DEFINITIONS," SECTION 24-114, ENTITLED "COLLECTION AND ENFORCEMENT," SECTION 24-115, ENTITLED "INITIAL ASSESSMENT RESOLUTION," SECTION 24-116, ENTITLED "PUBLIC HEARINGS," SECTION 24-117, ENTITLED "NOTICE REQUIREMENTS FOR PUBLIC HEARINGS," SECTION 24-118, ENTITLED "PREPARATION OF ASSESSMENT ROLL," SECTION 24-119, ENTITLED "FINAL ASSESSMENT RESOLUTION," SECTION 24-120, ENTITLED "PRELIMINARY ASSESSMENT RESOLUTION," SECTION 24-121, ENTITLED "ANNUAL ASSESSMENT RESOLUTION," SECTION 24-122, ENTITLED "EFFECT OF FINAL OR ANNUAL ASSESSMENT RESOLUTIONS," SECTION 24-123, ENTITLED "ADOPTION OF ASSESSMENT ROLL," SECTION 24-124, ENTITLED "CERTIFICATION OF ASSESSMENT ROLL, "SECTION 24-125, ENTITLED "EXEMPTIONS," SECTION 24-126, ENTITLED "REVISIONS TO SPECIAL ASSESSMENTS," SECTION 24-127, ENTITLED "PROCEDURAL REGULARITIES," SECTION 24-128, ENTITLED "CORRECTION OF ERRORS AND OMISSIONS," SECTION 24-129, ENTITLED "ALTERNATE METHOD OF COLLECTION," SECTION 24-130, ENTITLED "BROWARD COUNTY PROPERTY APPRAISER AND BROWARD COUNTY REVENUE," AND SECTION 24-131, ENTITLED "RESERVATION OF POWERS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission finds that it is in the best interests of the citizens and residents of the Town to adopt an ordinance providing for the levy, collection and enforcement of a fire protection special assessment in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA:

Section 1: The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance. All exhibits referenced herein are hereby incorporated within this Ordinance by this reference and made a specific part hereof.

Section 2: Chapter 24, entitled "Taxation and Finance," of the Town of Pembroke Park's Code of Ordinances, is hereby creating Article IV, to be entitled "Fire Protection Special Assessment," as follows:

Chapter 24 – TAXATION AND FINANCE

...

ARTICLE IV. – FIRE PROTECTION SPECIAL ASSESSMENT

Sec. 24-110. - Intent.

It is the intent of the Town to provide a methodology for the fair and reasonable levy and collection of a Town-wide special assessment to fund the provision of fire protection services by the Town. The Town intends to utilize the uniform method for the levy and collection of special assessments, as provided in F.S. §§ 197.3632 and 197.3635, as those provisions set forth a fair and reasonable procedure to levy and collect special assessments that ensures proper notice and adequate due process to affected parties, and provides for the cooperation between the Town and other governmental entities toward the collection and use of data, providing notice to affected parties, and ensuring the collection of proceeds for use by the Town. It is not the intent of the Town to create any additional due process rights other than those set forth in F.S §§ 197.3632 and 197.3635. To the extent any provisions in this article conflict with those statutory provisions, the aforementioned statutes shall prevail.

Sec. 24-111. - Findings of special benefit.

The Town specifically finds that the provision of fire protection service by the Town provides the requisite special benefit to real property within the Town to justify the funding of fire protection services through a special assessment, as the provision of fire protection services possesses a logical relationship to the use and enjoyment of real property by:

- (1) Protecting the value of improvements and structures upon real property;
- (2) Lowering the cost of insurance upon real property, including but not limited to fire insurance;
- (3) Protecting the public safety; and

(4) Enhancing the value of real property, both commercial and residential.

Sec. 24-112. - Authority.

(a) The Town Commission is authorized to fund all or any portion of the costs of providing fire protection services within the Town by imposing an annual Fire Protection Special Assessment upon benefitted real property within the Town based upon the special benefit received by such property from the provision of such service.

(b) The Town Commission shall impose the Fire Protection Special Assessment pursuant to the procedures set forth in this article.

(c) The amount of the Fire Protection Special Assessment imposed upon a particular parcel of real property within the Town shall be determined pursuant to an apportionment methodology designed to provide a fair and reasonable apportionment of the assessed costs of providing fire protection services among the specially benefitted properties. Such methodology shall be set forth by separate resolution duly adopted by the Town Commission as provided in this article.

Sec. 24-113. - 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:

Fire protection services means fire suppression, fire investigations, hazardous materials response, disaster preparedness, fire inspections, fire prevention, fire engineering, fire code enforcement, life safety and fire hazard analysis, fire plans examination, fire training, fire administration, and public information and awareness; and excludes emergency medical services.

Fire protection costs means the amount determined by the Town Commission to be assessed in any fiscal year to fund all or any portion of the cost of providing fire protection services, as defined hereinafter, including without limitation: costs of physical construction of or modifications to require facilities; the costs of vehicles, equipment, fuel, supplies, maintenance and repairs; insurance and indemnity costs; personnel costs, including salaries, benefits, uniforms, training, traveling and per diems; all costs associated with the implementation, collection, and enforcement of the Fire Protection Special Assessment; a reasonable contingency for anticipated delinquencies and uncollected assessments; all other costs reasonably associated with the provision of fire protection services by the Town. *Government property* means property that is:

(1) Owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, special district or municipal corporation; and

(2) Used for a governmental purpose and not in a pecuniary manner.

Institutional property means those parcels designated by the property appraiser as "institutional."

Uniform assessment collection act (uniform method) refers to F.S. § 197.3632 or any successor statute authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

Sec. 24-114. - Collection and enforcement.

Unless directed otherwise by the Town Commission, the Fire Protection Assessment shall be collected pursuant to the Uniform Assessment Collection Act, and the Town shall comply with all applicable provisions thereof. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

Sec. 24-115. - Initial Assessment Resolution.

Prior to the preparation of a non-ad valorem assessment roll for the Fire Protection Special Assessment in the initial year of the levy of the Fire Protection Special Assessment, the Town Commission shall adopt an Initial Assessment Resolution which shall include, without limitation, the following:

(a) Brief description of the Fire Protection Services to be funded by the Fire Protection Special Assessment;

(b) Legislative determinations of special benefits and fair apportionment for the Fire Protection Special Assessment;

(c) The apportionment methodology for the Fire Protection Special Assessment;

(d) The determination of the Fire Protection Costs to be assessed;

(e) The establishment of initial Fire Protection Special Assessments, through an estimated fire protection special assessment rate schedule;

(f) Setting forth the date, time and location for the Town Commission to consider public comments on the adoption of the Final Assessment Resolution;

(g) Directing the requisite notice be provided to affected property owners for a public hearing to adopt the Final Assessment Resolution.

(h) Providing direction to the appropriate Town officials to prepare the assessment roll;

Sec. 24-116. - Preparation of assessment roll.

(a) The Town Manager, or his or her designee, shall prepare, or direct appropriate Town officials to prepare, the initial or preliminary assessment roll, which shall include without limitation the following:

(1) Summary description of all real property conforming to the description contained on the tax roll;

(2) The owner of the real property on which the Fire Protection Special Assessment is levied; and

(3) The amount of the Fire Protection Special Assessment to be imposed against each parcel of real property on which the assessment is levied.

(b) The initial assessment roll shall be retained by the Town Manager, or his or her designee, and shall be open to inspection by the public. The initial assessment roll need not be in printed form unless the amount of the Fire Protection Special Assessment for each parcel of property cannot be ascertained by electronic means.

Sec. 24-117. - Public hearings.

(a) Using the methodology adopted by the Town Commission pursuant to the Initial Assessment Resolution, the Town shall hold a public hearing to adopt the Fire Protection Special Assessment roll for the first time prior to September 15, 2023.

(b) The Town Commission shall set the date, time and location of the public hearing within the Initial or Preliminary Resolutions.

(c) A public hearing shall not be required to adopt the assessment roll in subsequent years unless required by the Uniform Assessment Collections Act.

Sec. 24-118. - Notice requirements for public hearing.

(a) Notice by mail. At least 20 days prior to the public hearing, the Town shall notice the hearing by first class United States mail. The Town may provide the notice required by this section through the use of annual TRIM notices mailed by the Broward County Property Appraiser pursuant to F.S. § 200.069. The notice by mail shall be sent to owners of property subject to the assessment, and shall include the following information:

(1) The purpose of the assessment;

(2) The total amount to be levied against each parcel;

(3) The unit of measurement to be applied against each parcel to determine the assessment;

(4) The number of such units contained within each parcel;

(5) The total revenue the Town will collect by the assessment;

(6) A statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title;

(7) A statement that all affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within 20 days of the notice; and

(8) The date, time and location of the public hearing.

(b) *Notice by publication.* At least 20 days prior to the public hearing, the Town shall notice the hearing by publication in a newspaper generally circulated within the county. The published notice shall contain at least the following information:

(1) Notice that the governing board of the Town is the Town Commission;

(2) The date, time and location of the public hearing;

(3) A geographic depiction of the property subject to the Fire Protection Special Assessment;

(4) The proposed schedule of the assessment, as provided in the assessment roll;

(5) The fact that the assessment will be collected by the tax collector;

(6) That the initial or preliminary assessment roll is available for public inspection at the office of the Town clerk and all interested persons can ascertain the amount to be assessed against a parcel by inspecting the assessment roll; and

(7) A statement that all affected property owners have the right to appear at the public hearing, and the right to file written objections with the Town Commission within 20 days of the publication of the notice.

Sec. 24-119. - Final Assessment Resolution.

In the initial year of the Fire Protection Assessment, at the time named in such notice, or such time to which an adjournment or continuance may be taken, the Town Commission shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the Town Commission, adopt the Final Assessment Resolution which shall:

(a) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Town Commission;

(b) approve the Fire Protection Assessment Roll, with such amendments as it deems just and right; and,

(c) determine the method of collection. All objections to adoption of the Final Assessment Resolution shall be made in writing, and filed with the Clerk at or before the time or adjourned time of such hearing.

Sec. 24-120. - Preliminary Assessment Resolution.

In years subsequent to the initial year in which the Fire Protection Special Assessment is levied, the Town Commission shall adopt a Preliminary Assessment Resolution, which shall include without limitation:

(a) Brief description of the fire protection services to be funded by the Fire Protection Special Assessment;

(b) Legislative determinations of special benefits and fair apportionment for the Fire Protection Special Assessment;

(c) The apportionment methodology for the Fire Protection Special Assessment;

(d) The determination of the fire protection costs to be assessed;

(e) The establishment of preliminary Fire Protection Special Assessments, through an estimated Fire Protection Special Assessment rate schedule;

(f) Setting forth the date, time and location for the Town Commission to consider public comments on the adoption of the Annual Assessment Rate Resolution;

(g) Directing the requisite notice be provided to affected property owners for a public hearing to adopt the Annual Assessment Resolution.

(h) Providing direction to the appropriate Town officials to prepare the assessment roll.

Sec. 24-121. - Annual Assessment Resolution.

During its budget adoption process, the Town Commission shall adopt an Annual Assessment Resolution for each Fiscal Year subsequent to the initial year in which the Fire Protection Special Assessment is levied. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year. The Annual Assessment Resolution shall approve the Fire Protection Assessment Roll for such Fiscal Year. The Fire Protection Assessment Roll shall be prepared in accordance with the Preliminary Assessment Resolution, as confirmed or amended by the Annual Assessment Resolution. The Town shall provide notice to the owner of such property in accordance with Section 24-118 hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution; provided that should the Town use the Uniform Assessment Collection Act, a public hearing is necessary only when such is required under the Act. Failure to

adopt an Annual Assessment Resolution during the budget adoption process for a Fiscal Year may be cured at any time.

Sec. 24-122. - Effect of Final or Annual Assessment Resolutions.

The adoption of the Final Assessment Resolution or Annual Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the Fire Protection Assessment Roll and the levy and lien of the Fire Protection Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of Town Commission adoption of the Final Assessment Resolution or Annual Assessment Resolution. The Fire Protection Assessments for each Fiscal Year shall be established upon adoption of the Final Assessment Resolution or Annual Assessment Resolution. The Fire Protection Assessment Roll, as approved by the Final Assessment Resolution or Annual Assessment Resolution shall be delivered to the Tax Collector or such other official as the Town Commission, by Resolution, deems appropriate.

Sec. 24-123. - Adoption of assessment roll.

(a) At the public hearing, the Town Commission shall receive the written objections and shall hear testimony from all interested persons. The Town Commission may adjourn the hearing from time to time.

(b) Notwithstanding the notices provided for in section 24-118, the Town Commission may adjust the assessment or the application of the assessment to any affected property based on the benefit which the Town will provide or has provided to the property with the revenue generated by the assessment.

(c) The adoption of the assessment roll shall be by resolution through the Final Assessment Resolution in the initial year of the Fire Protection Assessment, and the Annual Assessment Resolution in subsequent years.

(d) Adoption of the assessment resolution shall constitute a legislative finding that the standards required by this article have been met.

Sec. 24-124. - Certification of assessment roll.

Subsequent to the public hearing, but no later than September 15 of each year, the mayor, or his or her designee, shall certify the Fire Protection Special Assessment roll on compatible electronic medium pursuant to the uniform method. The Town shall post the Fire Protection Special Assessment for each parcel on the roll.

Sec. 24-125. - Exemptions.

(a) No Fire Protection Special Assessment shall be imposed upon governmental or institutional properties whose uses are wholly exempt from ad valorem taxation under state law.

as those uses provide services and benefits to the public and the Town which might otherwise need to be provided and funded by the Town. The Town Commission finds that the benefits derived by the Town and its residents from such uses provide a benefit to the Town that are no less than the benefits these properties receive from the provision of fire protection services by the Town. Hence, it is fair and reasonable not to impose the Fire Protection Special Assessment upon governmental or institutional properties whose uses are wholly exempt from ad valorem taxation.

(b) The Town Council may authorize additional exemptions within the Initial, Preliminary, Final and Annual Special Assessments.

(c) Any exemption approved by the Town Commission shall not result in any increase in assessments levied on non-exempt properties as a result of such exemptions and any shortfall in the assessed costs resulting from any exemption shall be funded from other available funds of the Town.

Sec. 24-126. - Revisions to Special Assessment.

If any Fire Protection Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Town Commission is satisfied that any such Fire Protection Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Town Commission has failed to include any property on the Fire Protection Assessment Roll that should have been so included, the Town Commission may take all necessary steps to impose a new Fire Protection Special Assessment or impose the Fire Protection Special Assessment on any omitted property, following as nearly as may be practicable the provisions of this Ordinance; and, in case such second Fire Protection Assessment is annulled, the Town Commission may obtain and impose other Fire Protection Special Assessments until a valid Fire Protection Assessment is imposed.

Sec. 24-127. - Procedural Irregularities.

Any irregularity in the proceedings in connection with the levy of any Fire Protection Special Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Fire Protection Special Assessment as finally approved shall be competent and sufficient evidence that such Fire Protection Special Assessment was duly levied, that the Fire Protection Special Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Protection Special Assessment were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section, any party objecting to a Fire Protection Special Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in Section 24-122 of this Ordinance.

Sec. 24-128. - Correction of errors and omissions.

(a) No act of error or omission on the part of the Town Commission, Town Manager, Broward County Property Appraiser, the Broward County Department of Revenue, Town Clerk, or their respective deputies, employees or designees, shall operate to release or discharge any obligation for payment of any Fire Protection Special Assessment imposed by the Town Commission under the provisions of this Ordinance.

(b) The assessment amount on any Assessed Property may be corrected at any time by the Town Manager when an error is confirmed. Any such correction which reduces a Fire Protection Special Assessment shall be considered valid from the date on which the Fire Protection Special Assessment was imposed and shall in no way affect the enforcement of the Fire Protection Special Assessment imposed under the provisions of this Ordinance. Any such correction which increases a Fire Protection Assessment or imposes a Fire Protection Special Assessment on omitted property shall first require notice to the affected owner in the manner described in Section 24-118(a) hereof, providing the date, time and place that the Town Commission will consider confirming the correction and offering the owner an opportunity to be heard.

(c) After the Fire Protection Assessment Roll has been delivered to the Tax Collector, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

Sec. 24-129. - Alternate Method of Collection

In lieu of using the Uniform Assessment Collection Act, the Town may elect to collect the Fire Protection Assessment by any other method which is authorized by law or under an alternative collection method provided by this Section.

(a) The Town shall have the right to record a lien for unpaid assessments in the public records of Broward County, Florida.

(b) The Town shall have the right to appoint or retain an agent to foreclose and collect all delinquent Fire Protection Special Assessments in the manner provided by law. A Fire Protection Special Assessment shall become delinquent if it is not paid within thirty (30) days from the date any payment is due. In the event the Town exercises its rights to foreclose and collect a delinquent Fire Protection Special Assessment, the Town or its agent shall notify any property owner who is delinquent in payment of his or her Fire Protection Special Assessment within sixty (60) days from the date the Fire Protection Special Assessment was due. Such notice shall state in effect that the Town or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Fire Protection Special Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(c) 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 Town may be the purchaser to the same extent as an individual person or corporation. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and

expenses incurred by the Town and its agents, including reasonable attorney fees, in collection of such delinquent Fire Protection Special Assessments and any other costs incurred by the Town as a result of such delinquent Fire Protection Special Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(d) In lieu of foreclosure, any delinquent Fire Protection Special Assessment and costs, fees, and expenses attributable thereto, may be rolled into the assessment for such parcel in a subsequent fiscal year.

(e) In lieu of foreclosure, any delinquent Fire Protection Special 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 law and this Ordinance; and (2) any existing lien of record on the affected parcel for the delinquent Fire Protection Assessment is supplanted by the lien resulting from certification of the Fire Protection Assessment Roll to the Tax Collector.

Sec. 24-130. - Broward County Property Appraiser and Broward County Department of Revenue

All activity by the Broward County Property Appraiser and Broward County Department of Revenue, which serves as Tax Collector for Broward County, undertaken pursuant to the terms of this article shall be deemed to be purely ministerial in nature.

Sec. 24-131. - Reservation of Powers.

This article shall be regarded as supplemental and additional 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 article shall be construed liberally to effect its purposes. Nothing in this article shall preclude the Town Commission from directing or authorizing, by resolution, any additional notices it deems proper, necessary or convenient to the Town.

Section 3: It is the intention of the Town Commission of the Town of Pembroke Park that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Pembroke Park, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word “Ordinance” may be changed to “Section,” “Article,” or such other word or phrase in order to accomplish such intention.

Section 4: All sections or parts of the Code of Ordinances, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, be and the same, are hereby repealed to the extent of such conflicts.

Section 5: Should any section or provision of this Ordinance, or any portion thereof, of any paragraph, sentence or word, be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof, as a whole or a part thereof other than the part declared to be invalid.

Section 6: This Ordinance shall become effective upon adoption

PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, ON FIRST READING, THIS ____ DAY OF _____, 2023.

PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, ON THE SECOND AND FINAL READING, THIS ____ DAY OF _____, 2023.

ATTEST:

ASHIRA MOHAMMED
Mayor Commissioner

MARLEN D. MARTELL
Town Clerk

Approved as to form and legal sufficiency

JACOB G. HOROWITZ
Interim Town Attorney

VOTE

ASHIRA MOHAMMED _____

ERIK MORRISSETTE _____

WILLIAM R. HODGKINS _____

MUSFIKA KASHEM _____

GEOFFREY JACOBS _____