

**ORDINANCE NO. 2018-019**

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, CREATING A NEW ARTICLE VI, ENTITLED "SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS", IN CHAPTER 86, TAXES AND FEES, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, FLORIDA, RELATING TO THE FUNDING OF CAPITAL IMPROVEMENTS THROUGH THE IMPOSITION OF SPECIAL ASSESSMENTS; PROVIDING THE PROCEDURE FOR THE IMPOSITION OF SUCH SPECIAL ASSESSMENTS; PROVIDING DEFINITIONS; AUTHORIZING THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS TO FUND THE COST OF CAPITAL IMPROVEMENTS PROVIDING A SPECIAL BENEFIT TO REAL PROPERTY WITHIN THE CITY; AUTHORIZING THE CREATION OF ASSESSMENT AREAS; PROVIDING FOR THE OPTIONAL AND MANDATORY PREPAYMENT OF ASSESSMENTS; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS AND FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING THAT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLLS; ESTABLISHING PROCEDURES AND METHODS FOR COLLECTION OF ASSESSMENTS, INCLUDING ASSESSMENTS IMPOSED ON GOVERNMENT PROPERTY; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY ASSESSMENTS; PROVIDING THAT SUCH OBLIGATIONS WILL NOT CREATE A GENERAL DEBT OR OBLIGATION OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Article VIII, section 2 of the Florida Constitution and Section 166.021, Florida Statutes, grant the City all governmental, corporate, and proprietary powers to enable the

City Council to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law, and such powers may be exercised by the enactment of City ordinances; and

**WHEREAS**, the purpose of this Ordinance is to establish a procedure to impose special assessments to fund the cost of capital improvements on properties within the City that are specially benefitted by the capital improvements in a fair and reasonable manner; and

**WHEREAS**, the assessments authorized and imposed pursuant to this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations are hereby adopted and incorporated by reference as if fully set forth in this Section.

**Section 2:** Chapter 86 entitled "Taxation and Fees" is hereby amended to include a new Article VI. entitled "Special Assessments for Capital Improvements" as follows:

### Chapter 86

#### TAXATION AND FEES

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#### **ARTICLE VI. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS**

##### **Sec. 86-230.- Authority and purpose.**

The City Council is hereby authorized to impose Assessments against property located within an Assessment Area to fund Capital Improvements. The Assessment shall be computed in a manner that fairly and reasonably apportions the Capital Costs among the parcels of property within an Assessment Area, based upon objectively determinable Assessment Units related to the value, use or physical characteristics of the property.

##### **Sec. 86-231.- Interpretation; definitions.**

(a) Interpretation. Unless the context indicates otherwise, words importing the singular number include the plural number and

vice versa; the terms "hereof", "hereby", "herein", "hereto", "hereunder" and similar terms refer to this Article; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Article. Words importing either gender include the correlative words of the other gender unless the context indicates otherwise.

(b) Definitions. When used in this Article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

Annual Assessment Ordinance means the ordinance described in section 86-237, approving an Assessment Roll for a specific Fiscal Year.

Assessment means a special assessment imposed by the City Council pursuant to this Article to fund the Capital Cost of Capital Improvements. The term "Assessment" and the reference to non-ad valorem assessments herein means those assessments which are not based upon millage and which can become a lien against a homestead as permitted by Article X, Section 4 of the Florida Constitution.

Assessment Area means any of specific areas created by ordinance of the City Council pursuant to section 86-232 hereof, that specially benefit from Capital Improvements.

Assessment Coordinator means the Finance Director or such person's designee.

Assessment Roll means the special assessment roll relating to Capital Improvements containing the information specified in section 86-234 hereof, approved by a Final Assessment Ordinance or an Annual Assessment Ordinance pursuant to section 86-236 or section 86-237 hereof.

Assessment Unit means the apportionment unit utilized to determine the Assessment for each parcel of property, as set forth in the Initial Assessment Resolution. "Assessment Units" may include, by way of example and not limitation, one or a combination of the following: front footage, land area, improvement area, equivalent residential connections or units, equivalent benefit units, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrency management regulations, property value or any other physical characteristic or reasonably expected use of the property that is related to the Capital Improvements to be funded from proceeds of the Assessment.

Capital Cost means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of Capital Improvements under generally accepted accounting principles; and including reimbursement to the City for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

Capital Improvements means capital improvements constructed or installed by the City which provide a special benefit to lands within an Assessment Area.

Final Assessment Ordinance means the ordinance described in section 86-236 hereof, which shall confirm, modify or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of an Assessment.

Fiscal Year means the period commencing on October 1 of each year and continuing through the following 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, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

Initial Assessment Resolution means the resolution described in section 86-233 hereof, which shall be the initial proceeding for the imposition of an Assessment.

Maximum Assessment Rate means the highest rate of an Assessment established by the City Council in an Initial Assessment Resolution and included in the notices required by section 86-235 hereof.

Obligations means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligation issued or incurred to finance Capital Improvements and secured, in whole or in part, by proceeds of the Assessments.

Pledged Revenue means, as to any series of Obligations, (i) the proceeds of such Obligations, including investment earnings, (ii)

proceeds of the Assessments pledged to secure the payment of such Obligations, and (iii) any other legally available non-ad valorem revenue pledged, at the City Council's sole option, to secure the payment of such Obligations, as specified by the ordinance authorizing such Obligations.

Property Appraiser means the Miami-Dade County Property Appraiser.

Resolution of Intent means the resolution expressing the City Council's intent to collect Assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act.

Tax Collector means the Miami-Dade County Tax Collector.

Tax Roll means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

Uniform Assessment Collection Act means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

**Sec. 86-232.- Creation of Assessment Areas.**

The City Council is hereby authorized to create Assessment Areas by ordinance. Each Assessment Area shall encompass only that property specially benefited by the Capital Improvements proposed for funding from the proceeds of Assessments to be imposed therein. Either the Initial Assessment Resolution proposing an Assessment Area or the Final Assessment Ordinance creating an Assessment Area shall include brief descriptions of the Capital Improvements proposed for such area, a description of the property to be included within the Assessment Area, and legislative findings that recognize the special benefit to be provided by each proposed Capital Improvement to property within the Assessment Area. Properties in any Assessment Area need not be adjacent or contiguous to any other property in an Assessment Area. An Assessment Area may encompass the entire area of the City.

**Sec. 86-233.- Initial Assessment Resolution.**

The initial proceeding for imposition of an Assessment shall be the City Council's adoption of an Initial Assessment Resolution. The

Initial Assessment Resolution shall:

- (1) Describe the proposed Assessment Area;
- (2) Describe the Capital Improvements proposed for funding from proceeds of the Assessments;
- (3) Estimate the Capital Cost;
- (4) Establish a Maximum Assessment Rate if desired by the City Council;
- (5) Describe with particularity the proposed method of apportioning the Capital Cost among the parcels of property located within the Assessment Area, such that the owner of any parcel of property can objectively determine the amount of the Assessment, based upon its value, use or physical characteristics;
- (6) Include specific legislative findings that recognize the equity provided by the apportionment methodology;
- (7) Schedule a public hearing at a meeting of the City Council, which meeting shall be a regular, adjourned or special meeting, at which to hear objections of all interested persons and to consider adoption of the Final Assessment Ordinance and approval of the Assessment Roll; and
- (8) Direct the Assessment Coordinator to (i) prepare the Assessment Roll pursuant to section 86-234 hereof, (ii) publish the notice required by section 86-235(a) hereof, and (ii) mail the notice required by section 86-235(b) hereof using information then available from the Property Appraiser.

**Sec. 86-234.- Assessment Roll.**

(a) The Assessment Coordinator shall prepare a preliminary Assessment Roll that contains the following information:

- (1) A summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Assessment;
- (2) The name of the owner of record of each parcel, as shown on the Tax Roll;
- (3) The number of Assessment Units attributable to each parcel;

(4) If applicable, the estimated maximum annual Assessment to become due in any Fiscal Year for each Assessment Unit; and

(5) If applicable, the estimated maximum annual Assessment to become due in any Fiscal Year for each parcel.

(b) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be on file in the office of the City Clerk and 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 Assessment for each parcel of property can be determined by use of a computer terminal or otherwise accessible through the internet or similar data base.

**Sec. 86-235.- Notice.**

(a) Notice by publication. After filing the Assessment Roll in the office of the City Clerk, as required by section 86-234(b) hereof, the Assessment Coordinator shall publish once in a newspaper of general circulation within Miami-Dade County a notice stating that at a meeting of the City Council on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the City Council will hear objections of all interested persons to the Final Assessment Ordinance and approval of the Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act and section 166.041, Florida Statutes. Such notice shall include (i) a geographic depiction of the property subject to the Assessment; (ii) the proposed schedule of the Assessment; (iii) the method by which the Assessment shall be collected; (iv) the Maximum Assessment Rate in the event one was adopted in the Initial Assessment Resolution; and (v) a statement that all affected property owners have the right to appear at the public hearing and to file written objections within 20 days of the publication of the notice. Notwithstanding anything herein to the contrary, notice of a proposed Assessment may be given in any manner authorized by law.

(b) Notice by mail. In addition to the published notice required by section 86-235(a) hereof, the Assessment Coordinator shall provide notice of the proposed Assessment by first class mail to the owner of each parcel of property subject to the Assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (i) the

purpose of the Assessment; (ii) the rate of Assessment to be levied against each parcel of property including a Maximum Assessment Rate in the event one was adopted by the Initial Assessment Resolution; (iii) the Assessment Unit to be applied to determine the Assessment; (iv) the number of such Assessment Units contained in each parcel; (v) the total revenue to be collected by the Assessment; and (vi) a statement that failure to pay the Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings may be instituted, either of which may result in a loss of title to the property; (vii) a statement that all affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of the notice; and (viii) the date, time and place of the hearing. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the Tax Roll on the twentieth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The Assessment Coordinator may provide proof of such notice by affidavit. Notwithstanding anything herein to the contrary, notice of a proposed Assessment may be given in any manner authorized by law.

**Sec. 86-236.- Adoption of Final Assessment Ordinance.**

(a) At the time, date and place named in the notices in § 86-235, or to which an adjournment or continuance may be taken, the City Council shall conduct the public hearing established pursuant to section 86-233 hereof to receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Final Assessment Ordinance which shall:

- (1) Confirm, modify or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council;
- (2) Create the Assessment Area;
- (3) Establish the maximum amount of the Assessment for each Assessment Unit;
- (4) Approve the Assessment Roll, with such amendments as it deems just and right; and
- (5) Determine the method of collecting the Assessments.



(b) The Final Assessment Ordinance shall be adopted according to the procedures provided in section 166.041, Florida Statutes.

(c) All written objections to the Final Assessment Ordinance shall be filed with the city clerk at or before the time or adjourned time of such hearing.

**Sec. 86-237.- Annual Assessment Ordinance.**

(a) The City Council may adopt an Annual Assessment Ordinance during its budget adoption process for each Fiscal Year in which Assessments will be imposed to approve the Assessment Roll for such Fiscal Year. The Final Assessment Ordinance shall constitute the Annual Assessment Ordinance for the initial Fiscal Year. The Assessment Roll, as prepared in accordance with the Initial Assessment Resolution and confirmed or amended by the Final Assessment Ordinance, shall be confirmed or amended by the Annual Assessment Ordinance to reflect the then applicable portion of the cost of the Capital Improvements to be paid by Assessments. Notwithstanding anything herein to the contrary, the City Council shall not be required to adopt an Annual Assessment Ordinance unless the circumstances set forth in section 86-237(b) so require.

(b) If the proposed Assessment for any parcel of property exceeds the Maximum Assessment Rate established in the Initial Assessment Resolution for the area and described in the notices provided pursuant to section 86-235 hereof or if an Assessment is imposed against property not previously subject thereto, the City Council shall provide notice to the owner of such property in accordance with section 86-235(b) hereof and conduct a public hearing prior to adoption of the Annual Assessment Ordinance. The Annual Assessment Ordinance shall be adopted according to the procedures provided in section 166.041, Florida Statutes. Failure to adopt an Annual Assessment Ordinance during the budget adoption process may be cured at any time.

**Sec. 86-238.- Effect of Final Assessment Ordinance and Annual Assessment Ordinance.**

The adoption of the Final Assessment Ordinance or of an Annual Assessment Ordinance requiring notice as provided in section 86-237 hereof, shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the maximum annual Assessment of each parcel, the adoption of the Assessment Roll and the levy and lien of the

Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council's adoption of the Final Assessment Ordinance. The Assessments for each Fiscal Year shall be established upon adoption of the Annual Assessment Ordinance. If the Assessments are to be collected pursuant to the Uniform Assessment Collection Act, the Assessment Roll, as approved by the Annual Assessment Ordinance, shall be certified to the Tax Collector.

**Sec. 86-239.- Payment of assessments.**

(a) If so authorized in the applicable Initial Assessment Resolution, Final Assessment Ordinance or Annual Assessment Ordinance, the Assessment imposed against any parcel of property to fund Capital Improvements may be subject to prepayment at the option of the property owner, as follows:

- (1) Prior to the issuance of Obligations, the Assessment Coordinator shall provide first class mailed notice to the owner of each parcel of property subject to the Assessment of the City Council's intent to issue such Obligations. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth day following the date on which the notice is delivered to the possession of the U.S. Postal Service), or such later date as the City Council may allow in its sole discretion, the owner of each parcel of property subject to the Assessment shall be entitled to prepay the total Assessment obligation.
  
- (2) Following the date specified in the notice provided pursuant to section 86-239(a) hereof, or such later date as the City Council may allow in its sole discretion, the owner of each parcel of property subject to the Assessment shall be entitled to prepay the total remaining Assessment upon payment of an amount equal to the sum of (i) such parcel's share of the principal amount of Obligations then outstanding, (ii) the premium associated with redemption of such parcel's share of the principal amount of Obligations then outstanding, and (iii) interest on such parcel's share of the principal amount of Obligations then outstanding, from the most recent date to which interest has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required by the ordinance authorizing issuance of such Obligations; provided however, that during any period commencing on the date the annual Assessment Roll is certified for

collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the Assessments imposed against any parcel of property by the amount of the Assessment certified for collection with respect to such parcel.

(b) At the City's election, the Assessment imposed against any parcel of property may be subject to acceleration and mandatory prepayment if at any time a tax certificate has been issued and remains outstanding in respect of such property. In such event, the amount required for mandatory prepayment shall be the same as that required for an optional prepayment authorized by section 86-239(a) hereof.

(c) The amount of all prepayments computed in accordance with this section 86-239(a) shall be final. The City shall not be required to refund any portion of a prepayment if (i) the Capital Cost is less than the amount upon which such prepayment was computed, or (ii) annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

**Sec. 86-240.- Lien of assessments.**

(a) Upon adoption of the Annual Assessment Ordinance for each Fiscal Year, Assessments to be collected under the Uniform Assessment Collection Act shall constitute 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. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the City Council of the Annual Assessment Ordinance and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(b) Upon adoption of the Final Assessment Ordinance, Assessments to be collected under the alternative method of collection provided in section 86-243 hereof shall constitute 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. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the Official Records of Miami-Dade County, Florida.

**Sec. 86-241.- Revisions to assessments.**

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

**Sec. 86-242.- Procedural irregularities; errors and omissions.**

(a) Any informality or irregularity in the proceedings in connection with the levy of any Assessment under the provisions of this Article shall not affect the validity of the same after the approval thereof, and any Assessment as finally approved shall be competent and sufficient evidence that such Assessment was duly levied, that the Assessment was duly made and adopted, and that all proceedings related to such Assessment were duly had, taken and performed as required by this Article; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section 86-242, any party objecting to an Assessment imposed pursuant to this Article must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

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

(c) In the event that the number of Assessment Units attributed to a parcel of property is incorrect under the terms of the apportionment methodology adopted by the City Council for a given Assessment program, the number of Assessment Units attributed to such parcel may be corrected at any time by the Assessment Coordinator, including upon presentation of competent substantial evidence by the owner of such parcel. Any such correction which

reduces an Assessment shall be considered valid from the date on which the Assessment was imposed and shall in no way affect the enforcement of the Assessment imposed under the provisions of this Article. Any such correction which increases an Assessment or imposes an assessment on omitted property shall first require notice to the affected owner at the address shown on the Tax Roll notifying the owner of the date, time and place that the City Council will consider confirming the correction and offering the owner an opportunity to be heard.

(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 thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

**Sec. 86-243.- Collection of assessments; alternate method.**

(a) Unless directed otherwise by the City Council, Assessments (other than Assessments imposed against Government Property) shall be collected pursuant to the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions thereof, including but not limited to (i) entering into a written agreement with the Property Appraiser and the Tax Collector for reimbursement of necessary expenses, (ii) certifying the Assessment Roll to the Tax Collector, and (iii) adopting a Resolution of Intent after publishing weekly notice of such intent for four consecutive weeks preceding the hearing. The Resolution of Intent may be adopted either prior to or following the Initial Assessment Resolution; provided however, that the Resolution of Intent must be adopted prior to January 1 (March 1 with consent of the Property Appraiser and Tax Collector) of the year in which the Assessments are first collected on the ad valorem tax bill. This section shall not be construed to require adoption of an additional Resolution of Intent, and notice thereof, if a Resolution of Intent was previously adopted and is currently in effect for the area in question. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act. Upon adoption of a Resolution of Intent, the Mayor shall be authorized to execute reimbursement agreement(s) on behalf of the City as contemplated by section 197.3632(2) of the Uniform Assessment Collection Act, and to take such other actions as may be necessary or desirable in order to effectuate collection of the Assessments in accordance with the Uniform Assessment Collection Act.

(b) *Alternate method of collection.* In lieu of using the Uniform

Assessment Collection Act, the City may elect to collect the Assessment by any other method which is authorized by law or provided by this section 86-243(b) as follows:

- (1) The City shall provide 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 Assessment, (ii) a description of the Assessment Units used to determine the amount of the Assessment, (iii) the number of Assessment Units attributable to the parcel, (iv) the total amount of the parcel's Assessment for the appropriate period, (v) the location at which payment will be accepted, (vi) the date on which the Assessment is due, and (vii) a statement that the 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.
- (2) A general notice of the lien resulting from imposition of the Assessments shall be recorded in the Official Records of Miami-Dade County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.
- (3) The City shall have the right to appoint or retain an agent to foreclose and collect all delinquent Assessments in the manner provided by law. An Assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The City or its agent shall notify any property owner who is delinquent in payment of an Assessment within sixty (60) days from the date such Assessment was due. Such notice shall state in effect that the City or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.
- (4) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as an individual person or corporation. The City may join in one foreclosure action the collection

of Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property 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 Assessments and any other costs incurred by the City as a result of such delinquent 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.

- (5) In lieu of foreclosure, any delinquent 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 law and this Article, and (ii) any existing lien of record on the affected parcel for the delinquent Assessment is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

**Sec. 86-244.- Enforcement.**

The City and its agents, if any, shall maintain the duty to enforce the prompt collection of Assessments by the means provided herein. The duties related to collection of Assessments may be enforced at the suit of any holder of Obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

**Sec. 86-245.- Government property.**

(a) Notwithstanding anything herein to the contrary, Assessments shall not be imposed against Government Property which is exempted from the payment of special assessments and/or non-ad valorem assessments under state or federal law. The foregoing class of properties not to be assessed do not include Government Property that is leased for private use. Nothing herein shall be construed to require the imposition of Assessments against Government Property.

(b) If Assessments are imposed against Government Property, the City shall provide Assessment bills by first class mail to the owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (i) a brief explanation of the Assessment, (ii) a description of the Assessment

Units used to determine the amount of the Assessment, (iii) the number of Assessment Units attributable to the parcel, (iv) the total amount of the parcel's Assessment for the appropriate period, (v) the location at which payment will be accepted, and (vi) the date on which the Assessment is due.

(c) Assessments imposed against Government Property shall be due on the same date as Assessments against other property within the Assessment Area and, if applicable, shall be subject to the same discounts for early payment.

(d) An Assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The City shall notify the owner of any Government Property that is delinquent in payment of its Assessment within sixty (60) days from the date such Assessment was due. Such notice shall state in effect that the City will initiate a mandamus or other appropriate judicial action to compel payment.

(e) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. 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 or its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent 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.

(f) As an alternative to the foregoing, an Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The City Council may also contract for such billing services with any utility not owned by the City.

**Sec. 86-246.- Issuance of obligations.**

(a) The City Council shall have the power and is hereby authorized to provide by ordinance, at one time or from time to time in series, for the issuance of Obligations to fund Capital Improvements and any amounts to be paid or accrued in connection with issuance of such Obligations including but not limited to capitalized interest, transaction costs and reserve account deposits.



(b) Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the City within the meaning of the Constitution of the State of Florida, but such Obligations shall be payable only from Pledged Revenue and, if applicable, proceeds of the Assessments, in the manner provided herein and by the ordinance authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the City to levy or to pledge any form of ad valorem taxation whatsoever. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the City to pay any such Obligations or the interest thereon or to enforce payment of such Obligations or the interest thereon against any property of the City, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, except the Pledged Revenue.

(c) The City may, by ordinance of the City Council, issue Obligations to refund any Obligations issued pursuant to this Article, or any other obligations of the City issued to finance Capital Improvements, and provide for the rights of the holders hereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be refunded. If the issuance of such refunding Obligations results in an annual Assessment that exceeds the estimated maximum annual Assessments set forth in the notice provided pursuant to section 86-235(b) hereof, the City Council shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article III of this Ordinance.

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**Section 3: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 4: Savings.** 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 the City Code and any 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 health, safety and welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

**Section 5: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6: Penalties.** Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

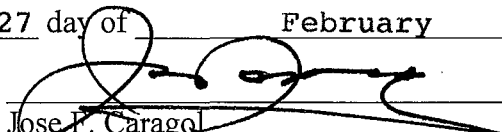
**Section 7: Inclusion in Code.** The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this Ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 8: Effective Date.** This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 27 day of February, 2018.

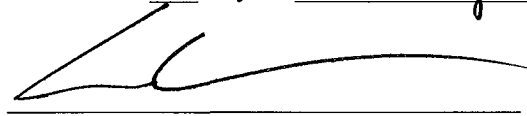
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Attest:

  
Jose P. Caragol  
Council Vice-President

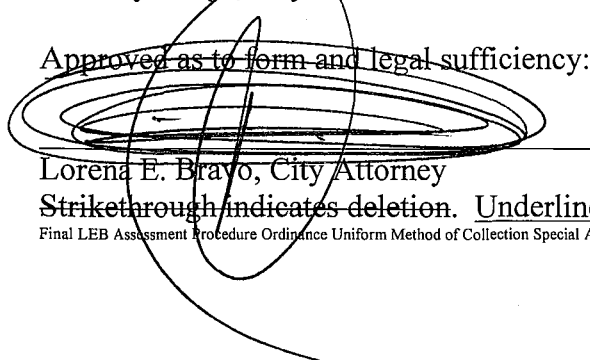
Approved on this 28 day of February, 2018.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

~~Approved as to form and legal sufficiency:~~

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Caragol, Zogby, Lozano, Cue-Fuente, and Hernandez voting "Yes" and Casals-Munoz and Garcia-Martinez being absent.

  
Lorena E. Bravo, City Attorney

~~Strikethrough indicates deletion.~~ Underline indicates addition.