



OFFICE OF THE  
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THE CITY OF DAYTONA BEACH

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MEMORANDUM

TO: City Commission  
FROM: Robert Jagger, City Attorney *RS*  
DATE: November 20, 2018  
RE: Uniform Collection Method for Non-Ad Valorem Assessments for the City's  
Demolition Costs

The City has been incurring costs to demolish structures pursuant to procedures for condemnation and demolition of depilated and unsafe structures under the International Property Maintenance Code ("IPMC"), as adopted in the City's Land Development Code ("LDC"). (See Resolutions 16-282, 17-224, and 17-225; and s. 9.2, LDC). The City's demolition costs become liens against properties pursuant to s. 9.2.B.2, LDC, which often remain unpaid. As an alternative means of collection, the City Commission may want to consider establishing non-ad valorem assessments on such properties, and use of the uniform method for collections as authorized in s. 197.3632, Fla. Stat.

In 2017, the Volusia County Property Appraiser, Larry Bartlett, agreed to add to property tax bills certain special assessments associated with a local government's costs to remedy code enforcement violations. As a result, several cities in Volusia County have created non-ad valorem assessments for such costs pursuant to s. 197.3632, Fla. Stat., and have adopted the uniform method of collection to recover on liens so created. Under the uniform method of collection, non-ad valorem assessments are included in the property owner's annual tax bill, and if unpaid a tax certificate is issued by the Volusia County Tax Collector, the proceeds of which are used to satisfy delinquent taxes and assessments. If the debt created by the tax certificate remains unpaid a tax deed sale occurs via auction by the Volusia County Clerk, and title transfers by tax deed to the successful bidder (typically the certificate holder) or to the County if there are no bids. Unlike recorded liens for the City's costs to cure violations of the IPMC created by s. 9.2.B.2, LDC; special assessments imposed under s. 197.3632, Fla. Stat., become a lien against homestead and other property benefited, which may then be collected by the uniform method.

Section 197.3632, Fla. Stat., requires the City to adopt a Resolution in the calendar year prior to implementing the uniform method of collections, indicating intent to use such method of collections. The resolution must be adopted by January 1st (unless extended by agreement with the Property Appraiser and Tax Collector) and distributed to the Volusia County Property Appraiser, Volusia County Tax Collector, and the Florida Department of Revenue by January 10th. Section 197.3632, Fla. Stat., further requires the City to enter into written agreements with the Property Appraiser and Tax Collector providing for reimbursement of necessary administrative

costs. Authority to enter into those agreements is provided in the draft Resolution submitted for this agenda item.

If this item is approved by the Commission, the Land Development Code should also be amended (after Planning Board review) to create and establish non-ad valorem assessments for demolition costs incurred by the City. The proposed Ordinance would authorize imposition of non-ad valorem assessments on property: (i) where there occurs a condemned structure which has been determined by order of the Chief Building Official to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy such that it is unreasonable to repair and must be demolished; (ii) on which the City has undertaken action pursuant to City regulations to demolish such structure and, thereby incurs costs; and (iii) where the owner of the property has failed to pay the amount owed to the City for the demolition costs.

It should be noted that some local government entities have approved more expanded authority to impose non-ad valorem assessments under s. 197.3632, Fla. Stat., to include other municipal costs to remedy code violations, such as for mowing and lot clearance. I am, however, hesitant to recommend an Ordinance that is drafted more broadly. Limiting non-ad valorem assessments to the City's demolition costs, where the Building Official has ordered that it is not reasonable to repair the structure, should place the City in a better position to defend any legal challenge asserting that the assessed property has not been specially benefited, or that costs have not been fairly apportioned or assessed against the property.

Please feel to contact me by phone, or email reply to me directly (not reply all), if you should have any questions.

cc: City Manager  
City Clerk