

ORDINANCE NO. 17-18-04

AN ORDINANCE AMENDING CHAPTER 9 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, BY ADDING THERETO A NEW ARTICLE XLI CREATING THE HIGHLANDS COUNTY FIRE PROTECTION MUNICIPAL SERVICE BENEFIT UNIT TO FUND A COMPREHENSIVE FIRE PROTECTION PROGRAM; DESCRIBING THE BOUNDARIES OF THE UNIT; AUTHORIZING THE ANNUAL LEVY OF NON-AD VALOREM ASSESSMENTS WITHIN THAT UNIT TO PROVIDE FOR A COMPREHENSIVE FIRE PROTECTION PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA:

SECTION 1. Amendment and Adoption. Chapter 9 of the Code of Ordinances, Highlands County, Florida, is amended by adding thereto a new Article XLI, which is adopted to read as follows:

ARTICLE XLI. HIGHLANDS COUNTY FIRE PROTECTION MUNICIPAL SERVICE BENEFIT UNIT

Sec. 9-611. Findings. It is hereby ascertained, determined and declared that:

- (a) Pursuant to Section 1 of Article VIII of the Constitution of the State of Florida, and Sections 125.01 and 125.66, Florida Statutes, the Board of County Commissioners of Highlands County, Florida, has all powers of local self-government to perform county and municipal functions and to render services in a manner not inconsistent with general law, and those powers may be exercised by the enactment of county ordinances and resolutions.
- (b) Section 125.01(1)(q), Florida Statutes, provides specific legislative authorization for counties to establish municipal service benefit units for any part or all of the unincorporated areas within its boundaries within which the county may levy service charges and non-ad valorem assessments to provide essential facilities and services including, but not limited to, fire protection.

(c) Section 125.01(1)(q), Florida Statutes, further provides that, subject to the consent by ordinance of the governing body of the affected municipality, the boundaries of a municipal service benefit unit may include all or part of the boundaries of the municipality.

(d) The County presently funds fire protection services through municipal service benefit units and other funding sources.

(e) The Board has determined that funding fire protection services, facilities, and programs in the unincorporated area of the County and the incorporated area of the Town of Lake Placid has resulted in funding disparities that prevent adequate funding and uniformity of equipment, facilities, and delivery of fire protection services throughout those areas.

(f) The Board has also determined that uniformity in equipment, facilities, and delivery of fire protection services is desirable throughout the unincorporated area of the County and any incorporated area desiring to be included in the County's fire protection program.

(g) The purpose of this Article is to create the Highlands County Fire Protection Municipal Service Benefit Unit to fund and provide fire protection services, facilities, machinery, equipment, and programs.

(h) Fire protection services, facilities, machinery, equipment, and programs constitute municipal services within the meaning of Section 125.01(1)(q), Florida Statutes.

Sec. 9-612. Definitions. As used in this Article, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

(a) *Act* means Chapter 125, Florida Statutes.

(b) *Annual Assessment Resolution* means the resolution establishing the rate

at which a Fire Protection Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year in which a Fire Protection Assessment is imposed.

(c) *Assessed Property* means all parcels of land included on the Assessment Roll and subject to the Fire Protection Assessments contemplated by this Article.

(d) *Assessments* means the proceeds to be derived from assessments to be levied against the lands and properties to be specially benefitted by the provision of fire protection or the acquisition and construction of any project in the manner provided in this Article, including interest on such assessments and any penalties thereon and moneys received upon the foreclosure of the liens of any such assessments, but excluding money recovered for the expense of collecting assessments.

(e) *Assessment Roll* means the special assessment roll relating to a Fire Protection Assessment approved by a Final Assessment Resolution pursuant to this Article or an Annual Assessment Resolution pursuant to this Article.

(f) *Board* means the Board of County Commissioners of Highlands County, Florida.

(g) *Building* means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lots or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like.

(h) *Building Permit* means an official document or certificate issued by the County, under the authority of ordinance or law, authorizing the construction or

siting of any Building within the County. The term "Building Permit" shall also include set up or tie down permits or the functional equivalent, for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

(i) *Certificate of Occupancy* means the written certification issued by the County that a Building is ready for occupancy for its intended use. The term "Certificate of Occupancy" shall also include set up or tie down permits, or the functional equivalent, issued for those structures or Buildings, such as a mobile home, that do not require a Certificate of Occupancy in order to be occupied.

(j) *Clerk* means the Clerk of the Circuit Court for Highlands County, Florida, as ex-officio Clerk of the Board and such other person as may be duly authorized to act on his or her behalf.

(k) *County* means Highlands County, Florida.

(l) *County Administrator* means the chief administrative officer of the County, designated by the Board to be responsible for coordinating the Fire Protection Assessments, or such person's designee.

(m) *Final Assessment Resolution* means the resolution described in this Article, which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Protection Assessments.

(n) *Fire Protection Assessed Cost* means the amount determined by the Board to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire protection services, facilities, machinery, equipment, 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 therein, 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 salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (9) the cost of uniforms, gear, equipment, training, travel, and per diem; (10) the cost of construction plans and specifications, surveys and estimates of costs; (11) the cost of engineering, financial, legal, and other professional services; (12) the costs of compliance with any contracts or agreements entered into by the Board to provide fire protection services, facilities, machinery, equipment, and programs; (13) a reasonable amount for a capital asset replacement reserve account; (14) all costs associated with the structure, implementation, collection, and enforcement of the Fire Protection Assessments, including any service charges of the Tax Collector or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Protection Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Protection Assessments collected pursuant to this Article; (15) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire protection services, facilities, machinery, equipment, and programs, and such other expenses as may be necessary or incidental to any related financing authorized by the Board by subsequent resolution; (16) a reasonable amount for contingencies and anticipated delinquencies and uncollectible Fire Protection

Assessments; and (17) reimbursement to the County or any other Person for any moneys advanced for any costs incurred by the County or such Person in connection with any of the foregoing components of Fire Protection Assessed Cost. In the event the County also imposes an impact fee upon new growth or development for Fire Protection related capital improvements, the Fire Protection Assessed Cost shall not include costs attributable to capital improvements necessitated by new growth or development that will be paid by such impact fees. The Fire Protection Assessed Cost shall also not include costs for the provision of emergency medical services by the County.

(o) *Fire Protection Assessment* means a special assessment lawfully imposed by the Board against Assessed Property to fund all or any portion of the cost of the provision of fire protection 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 the Assessed Property.

(p) *Fire Protection MSBU* means the Highlands County Fire Protection Municipal Service Benefit Unit created by this Article.

(q) *Fiscal Year* means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the County and the Fire Protection MSBU.

(r) *Government Property* means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

(s) *Initial Assessment Resolution* means the resolution described in this Article that is the initial proceeding for the identification of the Fire Protection Assessed Cost for which an assessment is to be made and for the imposition of a Fire Protection Assessment.

(t) *Maximum Assessment Rate* means the highest rate of a Fire Protection Assessment established by the Board in an Initial Assessment Resolution or Preliminary Rate Resolution and confirmed by the Board in the Final Assessment Resolution or Annual Assessment Resolution or subsequent Assessment Resolution.

(u) *Ordinance* means a Fire Protection Assessment Ordinance, as amended from time to time.

(v) *Owner* means the Person shown as the owner of Assessed Property on the Tax Roll.

(w) *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.

(x) *Preliminary Assessment Resolution* means the resolution described in this Article initiating the annual process for updating the Assessment Roll and directing the re-imposition of Fire Protection Assessments pursuant to an Annual Assessment Resolution.

(y) *Property Appraiser* means the Highlands County Property Appraiser.

(z) *Tax Collector* means the Highlands County Tax Collector.

(aa) *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.

(ab) *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. 9-613. Creation. The Highlands County Fire Protection Municipal Service Benefit Unit is hereby created as a new municipal service benefit unit, which shall be coterminous with the unincorporated area of Highlands County, Florida, existing on January 1, 2018, and the first day of January each year thereafter, as more particularly described in Section 7.28, Florida Statutes, less the incorporated areas of Avon Park and Sebring. The Highlands County Fire Protection Municipal Service Benefit Unit shall also include the incorporated area of the Town of Lake Placid, as it exists from time to time, subject to consent by ordinance of the governing body of the Town of Lake Placid given annually or for a term of years acceptable to the Board.

Sec. 9-614. Inclusion of Municipalities. Any incorporated municipality within the County may be included within the boundaries of the Fire Protection MSBU upon the consent of the City Council to such inclusion by ordinance and approval of the inclusion by the Board. That consent shall be given annually or for a term of years acceptable to the Board.

Sec. 9-615. Authorization of Service Charges and Non-Ad Valorem Assessments. The Board is hereby authorized to levy annual service charges and non-ad valorem assessments upon real property within the Fire Protection MSBU, beginning with the County budget for the fiscal year beginning October 1, 2018. The budget, service charges, and assessment rates for the Fire Protection MSBU shall be approved and levied in the manner provided by general law for the levy of County service charges and non-ad valorem assessments.

Sec. 9-616. Authorization of Expenditures. Revenues derived from service charges and non-ad valorem assessments levied within the Fire Protection MSBU shall be used to fund services, facilities, equipment, machinery, operations, maintenance, programs, and the Fire Protection Assessed Costs required to implement and maintain a comprehensive fire protection program within the area served by the Fire Protection MSBU.

SECTION 2. Severability. The sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, and sections of this Ordinance.

SECTION 3 Conflict. Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

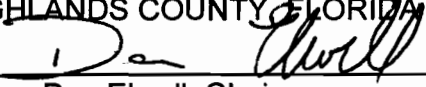
SECTION 4. Inclusion in Code. When the text of this Ordinance is published for inclusion in the Code the sections of this Ordinance may be renumbered or re-lettered for such inclusion.

SECTION 5. Effective Date. This Ordinance shall take effect immediately upon filing with the Florida Department of State.

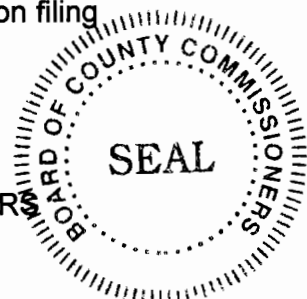
DONE AND ADOPTED this 7th day of NOV., 2017.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
HIGHLANDS COUNTY, FLORIDA

By: 
Don Elwell, Chairman

ATTEST: 
Robert W. Germaine, Clerk





FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

November 8, 2017

Honorable Robert W. Germaine
Clerk of the Circuit Court
Highlands County
590 South Commerce Avenue
Sebring, Florida 33870-3867

Attention: Pamela Gamez, Deputy Clerk

Dear Mr. Germaine:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Highlands County Ordinance No. 17-18-04, which was filed in this office on November 8, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb