

**ORDINANCE NO. 2001-9**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES, AND PROGRAMS IN THE TOWN OF SOUTHWEST RANCHES, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE RESCUE ASSESSMENTS AGAINST PROPERTY THROUGHOUT THE TOWN OF SOUTHWEST RANCHES; PROVIDING CERTAIN DEFINITIONS AND DEFINING THE TERM "FIRE RESCUE ASSESSMENT"; ESTABLISHING THE PROCEDURES FOR IMPOSING FIRE RESCUE ASSESSMENTS; PROVIDING THAT FIRE RESCUE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A FIRE RESCUE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING PROCEDURES FOR COLLECTION OF FIRE RESCUE ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the imposition of a fire rescue assessment will provide a more cost effective means for providing fire services to the residents of the Town of Southwest Ranches; and

**WHEREAS**, the Town of Southwest Ranches is desirous of establishing a method for assessing the cost of fire services in a manner that will insure that there are adequate funds to provide for

the level of services deemed necessary and proper to promote the health, safety, and general welfare of its citizens; and

**WHEREAS**, the Town is desirous of insuring that the cost of the fire services are borne on a fair and reasonable basis by the property owners receiving the benefit from said services;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:**

**Section A:** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and are hereby made a specific part of this Ordinance.

**Section B:** That the Town Code is amended to read:

**Section 1.0:** Fire Rescue Assessment

## ARTICLE 1

### INTRODUCTION

**SECTION 1.1:**       **DEFINITIONS.** As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

“**Annual Rate Resolution**” means the resolution described in Section 2.8 hereof, establishing the rate at which a Fire Rescue Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Rescue Assessment is imposed or reimposed.

“**Assessed Property**” means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the fire rescue services, programs or facilities identified in the Initial Assessment Resolution or the Preliminary Rate Resolution

“**Assessment Roll**” means the special assessment roll relating to a Fire Rescue Assessment approved by a Final Assessment Resolution pursuant to Section 2.6 hereof or an Annual Rate Resolution pursuant to Section 2.8 hereof.

“**Building**” means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

**“Building Department”** means the administrative office of the Town, or by contract another governmental agency, as designated by the Town Council to collect interim Fire Rescue assessments, or such office’s designee.

**“Building Permit”** means an official document or certificate issued by the Town, under the authority of ordinance or law, authorizing the construction or siting of any Building within the Town. The term “Building Permit” shall also include set up or tie down permits, or their functional equivalent, for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

**“Certificate of Occupancy”** means the written certification issued by the Town, or designated governmental entity, that a Building is ready for occupancy for its intended use. For the purposes of this Ordinance, a set up permit or its equivalent issued for a mobile home shall be considered a Certificate of Occupancy.

**“Final Assessment Resolution”** means the resolution described in Section 2.6 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Rescue Assessments.

**“Fire Rescue Assessment”** means a special assessment lawfully imposed by the Town against Assessed Property to fund the Fire Rescue Assessed Cost imposed to fund all or any portion of the cost of the provision of fire rescue 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 property identified in the Initial Assessment Resolution or the Preliminary Rate Resolution.

**“Fire Rescue Assessed Cost”** means the amount determined by the Town Council to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (G) the cost of any indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, workers’ compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the City to provide fire rescue services; (M) all costs associated with the structure, implementation, collection, and enforcement of the Fire Rescue Assessments, including any service charges of the Tax Collector, Property Appraiser and amounts necessary to offset discounts received for early payment of Fire Rescue Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Rescue Assessments collected pursuant to Section 3.2 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the Town Council by subsequent resolution; (O) a reasonable amount for contingency

and anticipated delinquencies and uncollectable Fire Rescue Assessments; and (P) reimbursement to the Town or any other Person for any monies advanced for any costs incurred by the City or such Person in connection with any of the foregoing components of Fire Rescue Assessed Cost.

**“Fiscal Year”** means that period commencing October 1<sup>st</sup> of each year and continuing through the next succeeding September 30<sup>th</sup>, or such other period as may be prescribed by law as a fiscal year for the Town.

**“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 or a municipal corporation.

**“Initial Assessment Resolution”** means the resolution described in Section 2.2 hereof which shall be the initial proceeding for the identification of the Fire Rescue Assessed Cost for which an assessment is to be made and for the imposition of a Fire Rescue Assessment.

**“Ordinance”** means this Fire Rescue Assessment Ordinance.

**“Owner”** shall mean the Person reflected as the owner of Assessed Property on the Tax Roll.

**“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.

**“Preliminary Rate Resolution”** means the resolution described in Section 2.8 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Rescue Assessments pursuant to an Annual Rate Resolution.

**“Property Appraiser”** means the Property Appraiser of Broward County.

“**Tax Collector**” means the Department of Finance and Administrative Services as described in Article IV of the Broward County Charter.

“**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.

“**Town**” means the Town of Southwest Ranches, Florida.

“**Town Administrator**” means the chief executive officer and the head of the administrative branch of the Town as defined in Article III, Section 3.01 of the Town Charter, or his/her designee.

“**Town Council**” means the governing body of the Town of Southwest Ranches, Florida.

“**TRIM Notice**” means the “Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments” mailed by the Property Appraiser no later than August 24<sup>th</sup> of each year advising Persons of proposed taxes and non-ad valorem assessments being considered for imposition on property owned by the Person.

“**Uniform Assessment Collection Act**” means section 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.

**SECTION 1.2:**        **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 Ordinance; and the term “hereafter” means after, and the term “heretofore” mean before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**SECTION 1.3: GENERAL FINDINGS.** It is hereby ascertained, determined, and

declared that:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the Town Council has all powers of local self-government to perform municipal functions, render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of Town Ordinances.

(B) The Town Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the Town Council may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to fire rescue services, facilities or programs of the Town.

(C) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of town-wide Fire Rescue Assessments under the general home rule powers of a municipality to impose special assessments; (2) authorize a procedure for the funding of fire rescue services, facilities, or programs providing special benefits to property within the Town; and, (3) legislatively determine the special benefit provided to Assessed Property from the provision of combined fire protection, control, suppression, prevention, and related rescue or first responder services by the Town under its consolidated fire rescue program or service contract(s).

(D) The annual Fire Rescue Assessments to be imposed pursuant to this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(E) The Fire Rescue Assessment imposed pursuant to this Ordinance is imposed by the Town Council, not the Broward County Board of County Commissioners, Property Appraiser, or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Ordinance shall be construed as ministerial.

**SECTION 1.4: LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT.**

It is hereby ascertained and declared that the fire rescue services, facilities, and programs of the Town provide a special benefit to property within the City that is improved by the existence or construction of a Dwelling Unit or Building based upon the following legislative determinations:

(A) Fire rescue services possess a logical relationship to the use and enjoyment of improved property by: (1) protecting the value of the improvements and structures through the provision of available fire rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of improvements and structures within improved parcels; (3) lower the cost of fire insurance by the presence of a professional and comprehensive fire rescue program within the Town; and (4) containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.

(B) The combined fire protection, control, suppression, prevention, and related rescue or first responder services of the Town under its consolidated fire rescue program or service contract(s)

enhance and strengthens the relationship of such services to the use and enjoyment of Buildings within improved parcels of property within the Town.

(C) The combined fire protection, control, suppression, prevention, and related rescue or first responder services of the Town under its consolidated fire rescue program or service contract(s) enhance the value of business and commercial property that is improved by the existence or construction of a Building which enhanced value can be anticipated to be reflected in the rental charge or value of such business or commercial property.

**ARTICLE II**

**ANNUAL FIRE RESCUE ASSESSMENTS**

**SECTION 2.1: GENERAL AUTHORITY.**

(A) The Town Council is hereby authorized to impose an annual Fire Rescue Assessment to fund all or any portion of the Fire Rescue Assessed Cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the Town’s provision of fire rescue services, facilities, or programs. All Fire Rescue Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the Fire Rescue Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Fire Rescue Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds. Nothing contained in this

Ordinance shall be construed to require the imposition of Fire Rescue Assessments against Government Property.

**SECTION 2.2: INITIAL PROCEEDINGS.** The initial proceeding for the imposition of a Fire Rescue Assessment shall be the adoption of an Initial Assessment Resolution by the Town Council (A) containing a brief and general description of the fire rescue services, facilities, or programs to be provided; (B) estimating the Fire Rescue Assessed Cost to be assessed; (C) describing the method of apportioning the Fire Rescue Assessed Cost and the computation of the Fire Rescue Assessment for specific properties; (D) providing a summary description of the parcels of property (conforming to the description contained on the Tax Roll) located with the Town that receive a special benefit from the provision of fire rescue services, facilities, or programs or describing a specific geographic area in which such service, facility, or program will be provided; (E) establishing an assessment rate for the upcoming Fiscal Year; and (F) directing the Town Administrator to (1) prepare the initial Assessment Roll, as required by Section 2.3 hereof, (2) publish the notice required by Section 2.4 hereof, and (3) mail or arrange the mailing of the notice required by Section 2.5 hereof using information then available from the Tax Roll.

**SECTION 2.3: INITIAL ASSESSMENT ROLL.**

(A) The Town Administrator shall prepare, or direct the preparation of, the initial Assessment Roll, which shall contain the following:

(1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll.

(2) The name of the Owner of the Assessed Property

(3) The amount of the Fire Rescue Assessment to be imposed against each such parcel of Assessed Property.

(B) The initial Assessment Roll shall be retained by the Town Administrator and shall be 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 Fire Rescue Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

**SECTION 2.4: NOTICE BY PUBLICATION.** Upon completion of the initial Assessment Roll, the Town Administrator shall publish, or direct the publication of, once in a newspaper of general circulation within the Town a notice stating that at a meeting of the Town 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 Commission will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (A) a geographic depiction of the property subject to the Fire Rescue Assessment; (B) a brief and general description of the fire rescue services, facilities, or programs to be provided; (C) the rate of assessment; (D) the procedure for objecting provided in Section 2.6 hereof; (E) the method by which the Fire Rescue Assessment will be collected; and, (F) a statement that the initial Assessment Roll is available for inspection at the office of the Town Administrator and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the Town Administrator.

**SECTION 2.5:**        **NOTICE BY MAIL.** In addition to the published notice required by Section 2.4, the Town Administrator shall provide notice, or direct the provision of notice, of the proposed Fire Rescue Assessment by mail to the Owner of each parcel of property (except Government Property) subject to the Fire Rescue Assessment. The Town Administrator, at his/her discretion, may utilize the TRIM notice process to serve as the required notice by mail provided that such notice shall include (A) the purpose of the Fire Rescue Assessment; (B) the rate of the assessment to be levied against each parcel of property; (C) the unit of measurement applied to determine the Fire Rescue Assessment; (D) the number of such units contained in each parcel of property; (E) the total revenue to be collected by the Town from the Fire Rescue Assessment; (F) a statement that failure to pay the Fire Rescue Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (G) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the Town Council within 20 days of the notice; and (H) the date, time, and place of the hearing. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. Failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the Town Council pursuant to this Ordinance.

**SECTION 2.6:**        **ADOPTION OF FINAL ASSESSMENT RESOLUTION.** At the time named in such notice, or to which an adjournment or continuance may be taken by the Town

Council, the Town Council shall receive any written objections of interested persons and may then, or at any subsequent meeting of the Town Council 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 Council; (B) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (C) approve the initial Assessment Roll, with such amendments as it deems just and right; and (D) determine the method of collection. The adoption of the Final Assessment Resolution by the Town Council shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire rescue services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the Final Assessment Resolution shall be made in writing, and filed with the Town Administrator at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Fire Rescue Assessments are imposed or reimposed hereunder.

**SECTION 2.7: EFFECT OF FINAL ASSESSMENT RESOLUTION.** The Fire Rescue Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the initial rate of assessment, the initial Assessment Roll, and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Town Council action on the Final Assessment Resolution. The initial Assessment Roll, as

approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.2 hereof is used to collect the Fire Rescue Assessments, such other official as the Town Council by resolution shall designate.

**SECTION 2.8:            ADOPTION OF ANNUAL RATE RESOLUTION.**

(A)    The Town Council shall adopt an Annual Rate Resolution during its budget adoption process for each Fiscal Year following the initial Fiscal Year for which a Fire Rescue Assessment is imposed hereunder.

(B)    The initial proceedings for the adoption of the Annual Rate Resolution shall be the adoption of a Preliminary Rate Resolution by the Town Council (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided; (2) estimating the Fire Rescue Assessed Cost to be assessed for the upcoming Fiscal Year; (3) establishing the assessment rate for the upcoming Fiscal Year; (4) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and (5) directing the Town Administrator to (a) update the Assessment Roll, (b) provide notice by publication and mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the Town.

(C)    The Annual Rate Resolution shall (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the Town Council deems just and right. The Assessment Roll shall be prepared in

accordance with the method of apportionment set forth in the Initial Assessment Resolution together with modifications, if any, and as confirmed in the Final Assessment Resolution or as provided in the Preliminary Rate Resolution.

(D) Nothing herein shall preclude the Town Council from providing annual notification to all Owners of Assessed Property in the manner provided in either or both Sections 2.4 or 2.5 hereof.

(E) Nothing herein shall preclude the Town Council from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to Section 2.4 or 2.5 hereof.

(F) In the event (1) the proposed Fire Rescue Assessment for any Fiscal Year exceeds the maximum rate of assessment adopted by the Town Council and included in notice previously provided to the Owners of Assessed Property pursuant to Sections 2.4 and 2.5 hereof, (2) the method of apportionment is changed or the purpose for which the Fire Rescue Assessment is imposed is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.4 and 2.5 hereof, (3) Assessed Property is reclassified in a manner which results in an increased Fire Rescue Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.4 and 2.5 hereof, or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and mail to the Owners of such Assessed Property. Such notice shall substantially conform with the notice requirements set forth in Sections 2.4 and 2.5 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or

inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the Town Council pursuant to this Ordinance.

(G) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll, and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Town Council action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Rescue Assessment not challenged within the required 20 day period for those Fire Rescue Assessments imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(H) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, by the Town Administrator or Property Appraiser if so designated, or if the alternative method described in Section 3.2 hereof is used to collect the Fire Rescue Assessments, such other official as the Town Council by resolution shall designate. If the Fire Rescue Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

**SECTION 2.9:**        **LIEN OF FIRE RESCUE ASSESSMENTS.** Upon the adoption of the Assessment Roll, all Fire Rescue Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Fire Rescue Assessment shall be deemed perfected upon adoption by the Town Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Rescue Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Fire Rescue Assessment collected under the alternative method of collection provided in Section 3.2 shall be deemed perfected upon adoption by the Town Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

**SECTION 2.10:**        **REVISIONS TO FIRE RESCUE ASSESSMENTS.** If any Fire Rescue Assessment made under the provisions of this Ordinance is either in whole or part annulled, vacated, or set aside by judgment of any court, or if the Town Council is satisfied that any such Fire Rescue Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Town Council has omitted any property on the Assessment Roll which property should have been so included, the Town Council may take all necessary steps to impose a new Fire Rescue Assessment against any property benefited by the Fire Rescue Assessed Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Fire Rescue Assessment is

annulled, vacated, or set aside, the Town Council may obtain and impose other Fire Rescue Assessments until a valid Fire Rescue Assessment is imposed.

**SECTION 2.11: PROCEDURAL IRREGULARITIES.** Any informality or irregularity in the proceedings in connection with the levy of any Fire Rescue Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Fire Rescue Assessment as finally approved shall be competent and sufficient evidence that such Fire Rescue Assessment was duly levied, that the Fire Rescue Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Rescue 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 Rescue Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

**SECTION 2.12: CORRECTION OF ERRORS AND OMISSIONS.**

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, Town Administrator, Town Council, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the Town Council under the provision of this Ordinance.

(B) When it shall appear that any Fire Rescue Assessment should have been imposed under this Ordinance against a parcel of property specially benefited by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the Assessment Roll; or such property

was erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the Town Council may, upon provision of notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in Section 2.5, impose the applicable Fire Rescue Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Rescue Assessment due for the prior two Fiscal Years. Such Fire Rescue Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Article III hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted, delinquent or corrected assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the Town Administrator shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Fire Rescue Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Rescue Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Rescue Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or

corrections shall be referred to, and processed by, the Town Administrator, or his/her designee, and not the Property Appraiser or Tax Collector.

(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 correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the Town Administrator, or his/her designee.

**SECTION 2.13: INTERIM ASSESSMENTS.**

(A) An interim Fire Rescue Assessment shall be imposed against all property for which a Certificate of Occupancy (or Building Permit, as determined by the Town Council) is issued after adoption of the Annual Rate Resolution. The amount of the interim Fire Rescue Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Fire Rescue Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Fire Rescue Assessment shall also include an estimate of the subsequent Fiscal Year's Fire Rescue Assessment. Issuance of the Certificate of Occupancy (or Building Permit, as determined by the Town Council) by mistake or inadvertence, and without the payment in full of the interim Fire Rescue Assessment, shall not relieve the Owner of such property of the obligation of full payment. For the purpose of this provision, such interim Fire Rescue Assessment shall be deemed due and payable on the date the Certificate of Occupancy (or Building Permit, as determined by the Town Council) was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county,

district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy (or Building Permit, as determined by the Town Council). Any interim Fire Rescue Assessment not collected prior to the issuance of the Certificate of Occupancy (or Building Permit, as determined by the Town Council) may be collected pursuant to the Uniform Collection Assessment Act as provided in Section 3.1 of this Ordinance, under the alternative collection method provided in Section 3.2 or by any other method authorized by law.

(B) In the event the Town Council chooses to collect the interim Fire Rescue Assessment at the time a Building Permit is issued, the following procedure shall apply:

(1) In the event a Building Permit expires prior to the completion of the Building for which it was issued, and the applicant paid the interim Fire Rescue Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Fire Rescue Assessment. Failure to timely apply for a refund of the Fire Rescue Assessment shall waive any right to a refund.

(2) The application for refund shall be filed with the Town’s Building Department (or building inspection services provider in the case of a contract) and shall contain the following:

- (a) The name and address of the applicant;
- (b) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;
- (c) The date the Fire Rescue Assessment was paid;

- (d) A copy of the receipt of payment for the Fire Rescue Assessment; and
  - (e) The date the Building Permit was issued and the date of expiration.
- (3) After verifying that the Building Permit has expired and the Building has not been completed, the Town's Building Department (or building inspection services provider in the case of a contract) shall refund the interim Fire Rescue Assessment paid for such Building.
- (4) A Building Permit which is subsequently issued for a Building on the same property which was the subject of a refund shall pay the interim Fire Rescue Assessment as required by this Section 2.13.

### **ARTICLE III**

#### **COLLECTION AND USE OF FIRE RESCUE ASSESSMENTS**

##### **SECTION 3.1: METHOD OF COLLECTION.**

(A) Unless otherwise directed by the Town Council, the Fire Rescue Assessments shall be collected pursuant to the uniform method provided in the Uniform Collection Assessment Act, and the Town shall comply with all applicable provisions of the Uniform Collection Assessment Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Collection Assessment Act.

(B) The amount of a Fire Rescue Assessment to be collected using the uniform method pursuant to the Uniform Collection Assessment Act for any specific parcel of benefited property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform

method of collection authorized by the Uniform Collection Assessment Act, (2) notice is provided to the Owner as required under the Uniform Collection Assessment Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Rescue Assessment upon certification of a non-ad valorem roll to the Tax Collector by the Town via the Property Appraiser.

**SECTION 3.2:           ALTERNATIVE METHOD OF COLLECTION.** In lieu of utilizing the Uniform Collection Assessment Act, the Town may elect to collect the Fire Rescue Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The Town shall provide Fire Rescue 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 (1) a brief explanation of the Fire Rescue Assessment, (2) a description of the unit of measurement used to determine the Fire Rescue Assessment, (3) the number of such units contained within the parcel of property, (4) the total amount of the Fire Rescue Assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Fire Rescue Assessment is due, and (7) a statement that the Fire Rescue 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.

(B) A general notice of the lien resulting from the imposition of the Fire Rescue Assessments shall be recorded in the Official Records of the County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The Town shall have the right to foreclose and collect all delinquent Fire Rescue Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Town or its agent shall notify any property owner who is delinquent in payment of his or her Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the Town or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Rescue Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent Fire Rescue Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(D) 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 herein. At the sale pursuant to decree in any such action, the Town may be the purchaser to the same extent as any Person. The Town or its agent may join in one foreclosure action in the collection of Fire Rescue Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent 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 Rescue Assessments and any other costs

incurred by the Town as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Fire Rescue 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 the Uniform Assessment Collection Act and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Fire Rescue Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector via the Property Appraiser.

(F) Notwithstanding the Town’s use of an alternative method of collection, the Town Administrator shall have the same power and authority to correct errors and omissions as provided to him or county officials in Section 2.12 hereof.

(G) Any Town Council action required in the collection of Fire Rescue Assessments may be by resolution.

**SECTION 3.3: GOVERNMENT PROPERTY.**

(A) If Fire Rescue Assessments are imposed against Government Property, the Town shall provide Fire Rescue Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Fire Rescue Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment, (3) the number of units contained within the parcel of property, (4) the total amount of the parcel’s Fire Rescue Assessment for the appropriate

period, (5) the location at which payment will be accepted, and (6) the date on which the Fire Rescue Assessment is due.

(B) Fire Rescue Assessments imposed against Government Property shall be due on the same date as all other Fire Rescue Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Town shall notify the Owner of any Government Property that is delinquent in payment of its Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state that the Town will initiate a mandamus or other appropriate judicial action to compel payment.

(D) 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 Town, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the Town as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a Fire Rescue Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of non-payment. The

Town Council may contract for such billing services with any utility, whether or not such utility is owned by the Town.

**ARTICLE IV**

**GENERAL PROVISIONS**

**SECTION 4.1:**      **APPLICABILITY.** This Ordinance and the Town’s authority to impose assessments pursuant hereto shall be applicable throughout the Town.

**SECTION 4.2:**      **ALTERNATIVE METHOD.**

(A) 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 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 welfare of the inhabitants of the Town, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the Town Council from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the Town, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Collection Assessment Act.

**SECTION 4.3:**      **SEVERABILITY.** The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

**SECTION 4.4:**      **EFFECTIVE DATE.** This Ordinance shall be in force and shall take effect immediately upon its passage and adoption.

**PASSED FIRST READING** this 10<sup>th</sup> day of May 2001.

**PASSED SECOND READING** this 14<sup>th</sup> day of June, 2001.

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**MECCA FINK, MAYOR**

**ATTEST:**

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**ARIELLE TYNER, TOWN CLERK**

**APPROVED AS TO FORM AND CORRECTNESS:**

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**GARY A. POLIAKOFF, J.D., TOWN ATTORNEY**

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