

1 AN ORDINANCE OF THE CITY COMMISSION OF THE CITY  
2 OF LIGHTHOUSE POINT, FLORIDA, CREATING A NEW  
3 CHAPTER ENTITLED "FIRE PROTECTION SPECIAL  
4 ASSESSMENT" AND ADDING SECTIONS OF THE CODE OF  
5 ORDINANCES TO AUTHORIZE THE IMPOSITION AND  
6 COLLECTION OF A SPECIAL ASSESSMENT UPON REAL  
7 PROPERTY WITHIN THE CITY OF LIGHTHOUSE POINT TO  
8 FUND THE PROVISION OF FIRE PROTECTION SERVICES  
9 BY THE CITY; PROVIDING FINDINGS OF FACT RELATED  
10 TO THE SPECIAL BENEFIT RECEIVED BY REAL PROPERTY  
11 WITHIN THE CITY BY THE PROVISION OF FIRE  
12 PROTECTION SERVICES; PROVIDING THE METHOD OF  
LEVYING AND COLLECTING A SPECIAL ASSESSMENT TO  
FUND FIRE PROTECTION SERVICES WITHIN THE CITY  
PURSUANT TO SECTIONS 197.3632 AND 197.3635,  
FLORIDA STATUTES; PROVIDING FOR DEFINITIONS;  
PROVIDING FOR NOTICE AND HEARING REQUIREMENTS  
FOR SPECIAL ASSESSMENTS; PROVIDING FOR  
PROCEDURES FOR THE COLLECTION OF THE FIRE  
PROTECTION SPECIAL ASSESSMENT; PROVIDING FOR  
ENFORCEMENT; PROVIDING FOR CONFLICT; PROVIDING  
FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE  
CODE; AND PROVIDING AN EFFECTIVE DATE.

13 WHEREAS, the City has the authority to adopt this Ordinance as an exercise of  
14 the Home Rule authority of the City of Lighthouse Point pursuant to Article VIII,  
15 Section 2(b), of the Florida Constitution, and Chapter 166, Florida Statutes and is  
16 supplemental to other provisions of law; and,

17 WHEREAS, the purpose of this Ordinance is to provide procedures and  
18 standards for the imposition of a Fire Protection Assessment upon specially benefitted  
19 properties within the City of Lighthouse Point under the general home rule powers of  
20 a municipality to impose special assessments, to authorize a procedure for funding Fire  
21 Protection Services through a special assessment, and to set forth legislative findings

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1 relating to the special benefit received by real property located within the City of  
2 Lighthouse Point by the provision of Fire Protection Services by the City; and,

3 WHEREAS, the provision of Fire Protection Services, promotes and protects the  
4 public health, safety and welfare, and is a valid exercise of the governmental,  
5 corporate and proprietary powers of a municipality; and

6 WHEREAS, the funding of Fire Protection Services, in whole or in part by special  
7 assessments levied upon properties deriving a special benefit from the service, is valid  
8 if the assessment is fairly and reasonably apportioned among the properties that  
9 receive the special benefit; and

10 WHEREAS, City desires to provide appropriate mechanisms for the levy and  
11 collection of special assessments levied by the City consistent with the Uniform  
12 Method for the levy, collection and enforcement of non-ad valorem assessments as  
13 set forth in Section 197.3632, Florida Statutes.

14 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY  
15 OF LIGHTHOUSE POINT, FLORIDA:

16 Section 1. The foregoing "WHEREAS" clauses are true and correct and hereby  
17 ratified, confirmed, and made a part of this Ordinance by the City Commission.

18 Section 2. Chapter \_\_, Article \_\_, Sections \_\_\_ through \_\_\_ of the Code of  
19 Ordinances of the City of Lighthouse Point, Florida, are hereby created to read as  
20 follows:

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CHAPTER \_

ARTICLE \_

**FIRE PROTECTION SPECIAL ASSESSMENT**

**Sec. 1. INTENT.**

It is the intent of the City of Lighthouse Point to provide a methodology for the fair and reasonable levy and collection of a City-wide Special Assessment to fund the provision of Fire Protection Services by the City. The City intends to utilize the Uniform Method for the Levy and Collection of Special Assessments, as provided in sections 197.3632, and 197.3635, Florida Statutes, as those provisions set forth a fair and reasonable procedure to levy and collect special assessments that ensures proper notice and adequate due process to affected parties, and provides for the cooperation between the City and other governmental entities toward the collection and use of data, providing notice to affected parties, and ensuring the collection of proceeds for use by the City. It is not the intent of the City to create any additional due process rights other than those set forth in sections 197.3632 and 197.3635, Florida Statutes. To the extent any provisions herein conflict with those statutory provisions, the aforementioned statutes shall prevail.

**Sec. 2. FINDINGS OF SPECIAL BENEFIT**

The City specifically finds that the provision of Fire Protection Service by the City provides the requisite special benefit to real property within the City to justify the funding of Fire Protection Services through a special assessment, as the provision of

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1 Fire Protection Services possesses a logical relationship to the use and enjoyment of  
2 real property by:

- 3 1. protecting the value of improvements and structures upon real  
4 property;
- 5 2. lowering the cost of insurance upon real property, including but not  
6 limited to fire insurance;
- 7 3. protecting the public safety; and,
- 8 4. enhancing the value of real property, both commercial and  
9 residential.

10 **Sec. 3. AUTHORITY**

11 (A) The City Commission of the City of Lighthouse Point is authorized to fund  
12 all or any portion of the costs of providing Fire Protection Services within the City by  
13 imposing an annual Fire Protection Special Assessment upon benefitted real property  
14 within the City based upon the special benefit received by such property from the  
15 provision of such service.

16 (B) The City Commission shall impose the Fire Protection Assessment  
17 pursuant to the procedures set forth herein.

18 (C) The amount of the Fire Protection Assessment imposed upon a particular  
19 parcel of real property within the City shall be determined pursuant to an  
20 apportionment methodology designed to provide a fair and reasonable apportionment  
21 of the assessed costs of providing Fire Protection Services among the specially  
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1 benefitted properties. Such methodology shall be set forth by separate Resolution  
 2 duly adopted by the City Commission as provided herein (Initial Resolution).

3 (D) No Fire Protection Assessment shall be imposed upon governmental or  
 4 institutional properties whose uses are wholly exempt from ad valorem taxation under  
 5 Florida law, as those uses provide services and benefits to the public and the City  
 6 which might otherwise need to be provided and funded by the City. The City  
 7 Commission finds that the benefits derived by the City and its residents from such  
 8 uses provide a benefit to the City that are no less than the benefits these properties  
 9 receive from the provision of Fire Protection services by the City. Hence, it is fair and  
 10 reasonable not to impose the Fire Protection Assessment upon governmental or  
 11 institutional properties whose uses are wholly exempt from ad valorem taxation.

12 **Sec. 4. DEFINITIONS.**

13 For the purposes of this Article the following definitions shall apply unless the  
 14 context clearly indicates or requires a different meaning.

15 **ASSESSABLE AREA** means the area of real property that will receive a special  
 16 benefit from a special assessment Service or Project.

17 **FIRE PROTECTION COSTS** means the amount determined by the City  
 18 Commission to be assessed in any Fiscal Year to fund all or any portion of the cost of  
 19 providing Fire Protection Services, including without limitation: costs of physical  
 20 construction of or modifications to required facilities; the costs of vehicles, equipment,  
 21 fuel, supplies, maintenance and repairs; insurance and indemnity costs; personnel  
 22 costs, including salaries, benefits, uniforms, training, traveling and per diems; all costs

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1 associated with the implementation, collection, and enforcement of the Fire Protection  
2 Assessment; a reasonable contingency for anticipated delinquencies and uncollected  
3 assessments; all other costs reasonably associated with the provision of Fire  
4 Protection Services by the City.

5 **GOVERNMENT PROPERTY** means property that is (i) owned by the United  
6 States of America or any agency thereof, the State of Florida or any agency thereof,  
7 a county, special district or municipal corporation, and (ii) used for a governmental  
8 purpose and not in a pecuniary manner.

9 **INSTITUTIONAL PROPERTY** means those parcels designated by the Property  
10 Appraiser as "Institutional."

11 **UNIFORM ASSESSMENT COLLECTION ACT (UNIFORM METHOD).** Refers to  
12 Florida Statutes §197.3632 or any successor statute authorizing the collection of non-  
13 ad valorem assessments on the same bill as ad valorem taxes, and any applicable  
14 regulations promulgated thereunder.

15 **Sec. 5. INITIAL RESOLUTION**

16 (A) Prior to the preparation of a Non-Ad Valorem Assessment Roll for the Fire  
17 Protection Special Assessment, the City Commission shall adopt an Initial Resolution  
18 which shall include, without limitation, the following:

19 1. Brief description of the Fire Protection Services to be funded by the  
20 Fire Protection Assessment;

21 2. Legislative Determinations of Special Benefits and Fair  
22 Apportionment for the Fire Protection Special Assessment;

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1           3.     The apportionment methodology for the Fire Protection Special  
2 Assessment;

3           4.     The determination of the Fire Protection Costs to be assessed;

4           5.     The establishment of initial Fire Protection Assessments, through  
5 an estimated Fire Protection Assessment Rate Schedule;

6           6.     Provide that the Fire Protection Assessment is to be collected on  
7 an annual basis until such time as the City Commission decides otherwise; and,

8           7.     Direction to the appropriate City officials to prepare the  
9 Assessment Roll;

10           (B)    The City Commission may, but is not obligated to, provide for the date,  
11 time, and location for the Public Hearing to adopt the Assessment Roll for the Fire  
12 Protection Special Assessment within the Initial Resolution.

13           **Sec. 6.     PUBLIC HEARINGS.**

14           (A)    Using the methodology adopted by the City Commission pursuant to the  
15 Initial Resolution, the City shall hold a public hearing to adopt the Fire Protection  
16 Assessment Roll for the first time between June 1 and September 15, 1998.

17           (B)    The City Commission shall set the date, time, and location of the Public  
18 Hearing by Resolution or by Motion.

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1 (C) A Public Hearing shall not be required to adopt the Assessment Roll in  
2 subsequent years unless:

3 1. The Fire Protection Assessment is increased beyond the maximum  
4 rate authorized by law or judicial decree at the time of the initial imposition;

5 2. The City's boundaries have changed, unless all newly affected  
6 property owners have provided written consent for such assessment to the local  
7 governing board; or

8 3. There is a change in the purpose for such assessment or in the use  
9 of the revenue generated by such assessment.

10 **Sec. 7. PREPARATION OF ASSESSMENT ROLL**

11 (A) The Mayor, or his or her designee, shall prepare, or direct appropriate City  
12 officials to prepare, the Initial Assessment Roll, which shall include without limitation  
13 the following:

14 1. Summary description of all real property conforming to the  
15 description contained on the Tax Roll;

16 2. The owner of the real property on which the Fire Protection  
17 Assessment is levied; and,

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

20 (B) The Initial Assessment Roll shall be retained by the Mayor, or his or her  
21 designee, and shall be open to inspection by the public. The Initial Assessment Roll  
22 need not be in printed form unless the amount of the Fire Protection Assessment for

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1 each parcel of property can not be ascertained by use of a computer terminal available  
2 to the public.

3 **Sec. 8. NOTICE REQUIREMENTS FOR PUBLIC HEARING**

4 (A) Notice By Mail. At least 20 days prior to the Public Hearing, the City  
5 shall notice the hearing by first-class United States mail. The notice by mail shall be  
6 sent to each person owning property subject to the assessment and shall include the  
7 following information:

- 8 1. the purpose of the assessment;
- 9 2. the total amount to be levied against each parcel;
- 10 3. the unit of measurement to be applied against each parcel to  
11 determine the assessment;
- 12 4. the number of such units contained within each parcel;
- 13 5. the total revenue the City will collect by the assessment;
- 14 6. a statement that failure to pay the assessment will cause a tax  
15 certificate to be issued against the property which may result in a loss of title;
- 16 7. a statement that all affected property owners have a right to  
17 appear at the hearing and to file written objections with the City Commission within  
18 20 days of the notice; and,
- 19 8. the date, time, and location of the Public Hearing.

20 Alternatively, the City shall maintain the option of providing the notice required by this  
21 section through the use of TRIM Notices pursuant to Section 200.069, Florida  
22 Statutes, as amended from time to time.

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1 (B) Notice By Publication. At least 20 days prior to the Public Hearing, the  
2 City shall notice the hearing by publication in a newspaper generally circulated within  
3 Broward County. The published notice shall contain at least the following information:

- 4 1. notice that the governing board of the City is the City Commission;
- 5 2. the date, time, and location of the Public Hearing
- 6 3. a geographic depiction of the property subject to the Fire  
7 Protection Assessment;
- 8 4. the proposed schedule of the assessment, as provided in the  
9 Assessment Roll;
- 10 5. the fact that the assessment will be collected by the tax collector;
- 11 6. that the Initial Assessment Roll is available for public inspection at  
12 the office of the City Clerk and all interested persons can ascertain the amount to be  
13 assessed against a parcel by inspecting the Initial Assessment Roll; and,
- 14 7. a statement that all affected property owners have the right to  
15 appear at the Public Hearing, and the right to file written objections with the City  
16 Commission within 20 days of the publication of the notice.

17 **Sec. 9. ADOPTION OF THE ASSESSMENT ROLL**

18 (A) At the Public Hearing, the City Commission shall receive the written  
19 objections and shall hear testimony from all interested persons. The City Commission  
20 may adjourn the hearing from time to time.

21 (B) Notwithstanding the notices provided for in Section 8, the City  
22 Commission may adjust the assessment or the application of the assessment to any

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1 affected property based on the benefit which the City will provide or has provided to  
2 the property with the revenue generated by the assessment.

3 (C) The adoption of the Assessment Roll shall be by Resolution ("Assessment  
4 Resolution").

5 (D) The Assessment Resolution shall include, without limitation:

- 6 1. the unit of measurement for the Fire Protection Assessment;
- 7 2. the amount of the assessment;
- 8 3. the imposition of the Fire Protection Assessment upon assessed  
9 properties; and,
- 10 4. that the Assessment Roll is approved.

11 (E) Alterations to the Assessment Roll may be made by the Mayor, or his or  
12 her designee, up to 10 days before Certification of the Assessment Roll.

13 (F) Adoption of the Assessment Resolution shall constitute a legislative  
14 finding that the standards required by this Article have been met.

15 (G) The Assessment Resolution shall constitute the Annual Rate Resolution  
16 for the initial Fiscal Year in which the Fire Protection Assessment is imposed or  
17 reimposed hereunder.

18 **Sec. 10. CERTIFICATION OF THE ASSESSMENT ROLL**

19 Subsequent to the Public Hearing, but no later than September 15 of each year,  
20 the Mayor, or his or her designee, shall certify the Fire Protection Assessment Roll on  
21 compatible electronic medium to the tax collector. The City shall post the Fire  
22 Protection Assessment for each parcel on the roll.

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1       **Sec. 11.       ANNUAL ASSESSMENT RATE RESOLUTION**

2       (A)   The City Commission shall adopt each Fiscal Year, during its budget  
3 adoption process, following the initial year of the Fire Protection Assessment, an  
4 Annual Assessment Rate Resolution.

5       (B)   Prior to the adoption of the Annual Assessment Rate Resolution, the City  
6 Commission shall adopt a Preliminary Resolution, which shall include without  
7 limitation:

8           1.    A brief description of the Fire Protection Services to be provided  
9 by the City;

10          2.    The amount of the cost of providing Fire Protection Services to be  
11 assessed upon specially benefitted properties within the City;

12          3.    Setting forth the date, time and location for the City Commission  
13 to consider public comments on the adoption of the Annual Assessment Rate  
14 Resolution;

15          4.    Directing the Mayor, or his or her designee, to update the  
16 Assessment Roll; and,

17          5.    If a public hearing is required by section 6 herein, directing the  
18 requisite notice be provided to affected property owners.

19       (C)   Unless one of the circumstances set forth in section 6 exists requiring a  
20 Public Hearing, no Public Hearing need be noticed and held by the City for the  
21 adoption of the Annual Assessment Rate Resolution.

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1 (D) At the time and date set forth in the Preliminary Resolution, the City  
2 Commission shall adopt the Annual Assessment Rate Resolution which shall include,  
3 without limitation:

4 1. the assessment rate to be imposed in the upcoming Fiscal Year;  
5 and,

6 2. approval of the Assessment Roll, with adjustments which the City  
7 Commission deems just and proper.

8 (E) The Assessment Roll shall be prepared as set forth in section 7, as  
9 modified.

10 (F) Nothing herein shall preclude the City Commission from providing annual  
11 notification to affected property owners, and holding a public hearing on an annual  
12 basis, in the manner set forth in sections 6 and 8.

13 **Sec. 12. APPEAL OF ADOPTION OF ASSESSMENT ROLL**

14 Any person having any right, title, or interest in any parcel against which the  
15 Fire Protection Assessment has been levied may appeal the assessment upon his or  
16 her property by initiating proper steps in a court of competent jurisdiction within  
17 twenty (20) days of the adoption by the City Commission of the Assessment  
18 Resolution.

19 **Sec. 13. COLLECTION AND ENFORCEMENT OF THE FIRE PROTECTION  
20 ASSESSMENT**

21 (A) Unless the City Commission determines otherwise by Resolution, the Fire  
22 Protection Assessment collected pursuant to this Article shall be included in the

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1 combined notice for ad valorem taxes and non-ad valorem assessments provided for  
2 in §197.3635, Florida Statutes.

3 (B) The City Commission may determine to collect the Fire Protection Special  
4 Assessment by any other method provided by law

5 (C) The Fire Protection Assessment collected pursuant to this Article shall be  
6 subject to all collection provisions of Chapter 197, Florida Statutes, including  
7 provisions relating to discount for early payment, prepayment by installment method,  
8 deferred payment, penalty for delinquent payment, and issuance and sale of tax  
9 certificates and tax deeds of non-payment.

10 **Sec. 14. PROPERTY APPRAISER/TAX COLLECTOR**

11 All activity by the Broward County Property Appraiser and the Broward County  
12 Department of Revenue undertaken pursuant to the terms of this Article shall be  
13 deemed to be purely ministerial in nature.

14 **Sec. 15. IRREGULARITIES.**

15 Any informality or irregularity in the proceedings in connection with the levy of  
16 any special assessment under the provisions of this Article shall not affect the validity  
17 of the special assessment where the assessment roll has been confirmed by the City  
18 by adoption of the Assessment Resolution. The assessment roll as finally approved  
19 and confirmed shall be competent and sufficient evidence that the assessment was  
20 duly levied, that the assessment was duly made and adopted, and that all other  
21 proceedings adequate to the adoption of the assessment roll were duly had, taken and  
22 performed as required by this Article, and no variance from the directions hereunder

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1 shall be held material unless it be clearly shown that the party objecting was clearly  
2 and materially injured thereby.

3 **Sec. 16. REVISIONS, CORRECTIONS, OMISSIONS**

4 (A) The City Commission shall be authorized to revise and correct errors and  
5 omissions in the Assessment Roll if:

6 1. Any Fire Protection Assessment made under this Article is  
7 annulled, vacated, or set aside, in whole or in part, by the judgment of any court. In  
8 such a case, the City Commission may revise the assessment to comport with the  
9 guidelines of any such judgment until such time as a valid assessment is imposed;

10 2. The City Commission is satisfied that any assessment is so  
11 defective that it can not be enforced or collected.

12 3. The City Commission has omitted any property from the  
13 assessment Roll which should have been assessed for Fire Protection Services.

14 (B) Prior to the delivery of the Assessment Roll to the Tax Collector, the  
15 Mayor, or his or her designee, shall be authorized to reclassify any property subject  
16 to the Fire Protection Assessment based upon competent substantial evidence, or to  
17 correct any error in applying the Fire Protection Assessment upon any particular  
18 parcel, either on his or her own initiative or upon receipt of a timely filed written  
19 petition by a property owner.

20 (C) No error or omission by the City Commission, Mayor or any of his or her  
21 designees, City Administrator, Property Appraiser, Tax Collector, or their deputies or  
22 employees, shall operate to release or discharge any obligation for payment of a Fire

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1 Protection Assessment imposed by the City Commission under the provisions of this  
2 Article.

3 **Sec. 17. ALTERNATE METHOD**

4 This Ordinance shall be deemed to provide an alternative method for imposing  
5 the Fire Protection Services Special Assessment, and shall be regarded as  
6 supplemental and additional powers conferred by other laws, and shall not be regarded  
7 as in derogation of any powers now existing or which may hereafter come into  
8 existence. This Ordinance shall be construed liberally to effect its purposes. Nothing  
9 herein shall preclude the City Commission from directing or authorizing, by Resolution,  
10 any additional notices it deems proper, necessary, or convenient to the City.

11 Section 3. All Ordinances or parts of Ordinances, Resolutions or parts of  
12 resolutions in conflict herewith be and the same are hereby repealed to the extent of  
13 such conflict.

14 Section 4. If any clause, section or other part or application of this Ordinance  
15 shall be held by any Court of competent jurisdiction to be unconstitutional or invalid,  
16 such unconstitutional or invalid parts or application shall be considered as eliminated  
17 and so not affecting the validity of the remaining portions or applications remaining  
18 in full force and effect.

19 Section 5. It is the intention of the City Commission of the City of Lighthouse  
20 Point that the provisions of this Ordinance shall become and be made a part of the  
21 Code of Ordinances of the City of Lighthouse Point, Florida, and that the Sections of  
22 this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be

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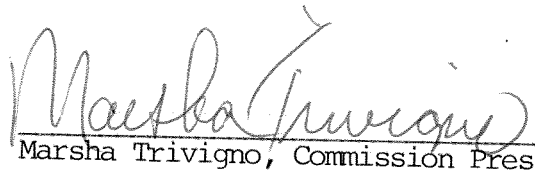
1 changed to "Section," "Article" or such other work or phrase in order to accomplish  
2 such intention.

3 Section 6. This ordinance shall take effect immediately upon adoption.


4 PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE  
POINT, FLORIDA, ON THE FIRST READING, THIS 26 DAY OF May, 1998.

5 PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE  
6 POINT, FLORIDA, ON THE SECOND READING, THIS 9th DAY OF June, 1998.

7 CITY OF LIGHTHOUSE POINT, FLORIDA

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Marsha Trivigno, Commission President

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13 ATTEST:

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16 Frances S. Marsh, City Clerk

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