



AGENDA REPORT
July 10, 2018

SUBJECT:

Amendment to Fire Assessment Code at Chapter 98, Article II, Division 3, Section 98-52, Code of Ordinances of Brevard County, Florida to conform with Florida Statutes 125.01(r)

DEPT/OFFICE:

County Attorney Office

REQUESTED ACTION:

Request Board approval of Code Amendment.

SUMMARY EXPLANATION and BACKGROUND:

Request the Board approve an amendment to Chapter 98, Article II, Division 3, Section 98-52, Code of Ordinances of Brevard County, Florida to conform with Florida Statutes 125.01(r) regarding when it is permissible to assess a fire protection services special assessment on agricultural lands with a residential dwelling or nonresidential farm buildings. One amendment states the County will not charge the fire assessment on buildings meeting the statutory definition of an agricultural pole barn, which is defined as a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress. Another amendment specifies that the fire assessment will not apply to nonresidential farm buildings if the value of the building is \$10,000 or lower. The third amendment specifies that the fire assessment will be charged solely on the special benefit accruing to that portion of an agricultural property that consists of the residential dwelling and curtilage, and qualifying nonresidential farm buildings. Notice was properly published in the Florida Today ten days in advance of this hearing. The State Statute became effective November 2017; our code did not directly address this issue and so our code should be updated accordingly.

CLERK TO THE BOARD INSTRUCTIONS:

On signature, file certified copy with the Office of the Secretary of State within 10 days of enactment and forward to appropriate Contractor to update the Code of Ordinances of Brevard County.

ATTACHMENTS:

Description

- ▣ **Amendment to Ordinance**
- ▣ **Legal Ad**



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

July 11, 2018

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2018-16, which was filed in this office on July 11, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 11, 2018

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item H.5., Ordinance Amending Fire Assessment Code at Chapter 98, Article II, Division 3, Section 98-52, Code of Ordinances of Brevard County, Florida, to Conform with Florida Statutes 125.01(r)

The Board of County Commissioners, in regular session on July 10, 2018, adopted Ordinance No. 18-16, amending Chapter 98, Article II, Division 3, Section 98-52, Code of Ordinances of Brevard County, Florida, to conform with Florida Statutes 125.01(r). Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

Encl. (1)

cc: Fire Rescue Director

ORDINANCE NO. 2018-16

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98, ARTICLE II, DIVISION 3, SECTION 98-52, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, TO CONFORM WITH FLORIDA STATUTES 125.01(r) REGARDING WHEN IT IS PERMISSIBLE TO ASSESS A FIRE PROTECTION SERVICES SPECIAL ASSESSMENT ON AGRICULTURAL LANDS WITH A RESIDENTIAL DWELLING OR NONRESIDENTIAL FARM BUILDINGS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTS; PROVIDING FOR THE AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Brevard County Code of Ordinances contains provisions relating to fire assessments for fire protection services; and

WHEREAS, the Florida legislature passed legislation to prohibit County governments from levying special assessments for fire protection services on lands classified as agricultural lands, unless the agricultural lands contain a residential dwelling, or a nonresidential farm building with a just value in excess of \$10,000; and

WHEREAS, the Florida legislature also excluded “agricultural pole barns” from imposition of a fire services special assessment if 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress; and

WHEREAS, the current Brevard County Code providing for a fire assessment for fire protection services is silent on the issue and should be updated;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida as follows:

Underline indicates additions. ~~Strike through indicates deletions.~~

SECTION 1. Chapter 98, Article II, Division 3, Section 98-52, Scope of annual fire service non-ad valorem special assessment delinquency, Code of Ordinances of Brevard County, Florida is hereby amended to add Sections 7.04 and 7.05, as follows:

Officially filed with the Secretary of State on July 11, 2018.

7.01 The Fire Service Non-Ad Valorem Special Assessment shall be established, and amended as required, by resolution using a methodology that sets an assessment proportionate to benefits as established using the information and standards set forth in section 98-51 above. The special assessment adopted pursuant to this ordinance shall be applicable to each lot, unit or parcel of improved real property for the availability and provision of fire protection services, with the exception of the following governmental and not-for-profit property uses exempted by the board:

7100	Church
7211	Church owned educational building
7310	Clinic
8110	Military – Improved land
8300	School – Public – Improved parcels
8400	College
8610	County owned land- Improved
8620	Utility division properties
8640	County agency other than BOCC – Improved
8660	Housing authority – Improved
8710	State owned land – Improved
8810	Federal owned land – Improved
8910	Municipal owned land – Improved
9010	Leased county/city property – Improved
9170	Water and sewer service

The funding for these exemptions shall come from the Fire MSTU. Funding for these exemptions shall not come from the proceeds derived directly from the Fire Service Non-Ad Valorem Special Assessment. Because these exemptions are funded by an external funding source, the grant of these exemptions does not have any impact upon the amount of the Fire Service Non-Ad Valorem Special Assessment to be imposed upon remaining nonexempt parcels.

7.02 The owner and description of each unit, lot or parcel of improved real property shall be that designated on the most current real property assessment roll maintained by the property appraiser.

7.03 The Fire Service Non-Ad Valorem Special Assessment shall become delinquent if not fully paid by the 31st day of March of the fiscal year for which the Fire Service Non-Ad Valorem Special Assessment is imposed

7.04 In accordance with Florida Statute 125.01(r), the Fire Service Non-Ad Valorem Special Assessment will only be assessed on agricultural lands if those lands have a residential dwelling or nonresidential farm building. The assessment must be based

solely on the special benefit accruing to that portion of the land consisting of the residential dwelling and curtilage, and qualifying nonresidential farm buildings.

7.05 In accordance with Florida Statute 125.01(r), the Fire Service Non-Ad Valorem Special Assessment will not be assessed on a nonresidential farm building unless it has a just value in excess of \$10,000. Additionally, "agricultural pole barns" are not subject to the special assessment. Agricultural pole barns are defined as a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

SECTION 2. Severability. In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

SECTION 3 Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 4. Effective Date. This ordinance shall take effect immediately upon its adoption and filing as provided by law. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

SECTION 5. Area Encompassed. This ordinance shall take effect in the areas covered by the Fire Service Special Assessment including the unincorporated areas of Brevard County, the Town of Grant-Valkaria, the Town of Melbourne Village, the Town of Palm Shores and the City of West Melbourne.

SECTION 6. Inclusion in the Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance is part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Adopted by the Brevard County Board of County Commissioners during regular session on the 10 day of July, 2018.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Ordinance No. 2018- 16

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Clerk

BY: 

Rita Pritchett, Chair

As approved by the Board on July 10, 2018

Reviewed for legal form and content by:



**Classified Ad Receipt
(For Info Only - NOT A BILL)**

Customer: B.O.C.C. COUNTY MANAGER'S OFF
Address: 2725 JUDGE FRAN JAMIESON WAY
MELBOURNE FL 32940
USA

Ad No.: 0002998290
Pymt Method: Invoice
Net Amt: \$177.54

Run Times: 1

No. of Affidavits: 1

Run Dates: 06/28/18

Text of Ad:

AD#2998290, 6/28/2018
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on July 10, 2018 at 5:00 P.M. in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL, 32940, will hold a public hearing on the following ordinance:

ORDINANCE NO.: 2018-_____
AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98, ARTICLE II, DIVISION 3, SECTION 98-52, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, TO CONFORM WITH FLORIDA STATUTES 125.01(f) REGARDING WHEN IT IS PERMISSIBLE TO ASSESS A FIRE PROTECTION SERVICES SPECIAL ASSESSMENT ON AGRICULTURAL LANDS WITH A RESIDENTIAL DWELLING OR NONRESIDENTIAL FARM BUILDINGS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTS; PROVIDING FOR THE AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

Interested parties may appear at the July 10, 2018 meeting and be heard with respect to the proposed ordinance.

All persons for or against said ordinance can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to such hearing or meeting, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the meeting hearing is contacted at least 48 hours prior to the public meeting hearing by any person wishing assistance. The sponsoring department is County Attorney, Telephone Number: (321) 633-2090.

A copy of the ordinance may be inspected at the following locations:

Brevard County Government Center, Building C Clerk to the Board of County Commissioners Central Brevard Library Law Library North Brevard Government Complex, Tax Collector Merrill Island Service Complex, Supervisor of Elections South Brevard Service Complex, Supervisor of Elections

A copy of the ordinance may also be viewed online at <http://www.brevardcounty.us/CountyManager/DraftOrdinances>

By order of the Board of County Commissioners of Brevard County, Florida

Deborah Thomas

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Wednesday, July 11, 2018 11:17 AM
To: Deborah Thomas
Cc: County Ordinances
Subject: Brevard20180711_Ordinance2018_16_Ack.pdf
Attachments: Brevard20180711_Ordinance2018_16_Ack.pdf

The Department of State is committed to excellence.
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