

ORDINANCE NO. 2021-019

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, RELATING TO THE FUNDING AND PROVISION OF FIRE RESCUE PROTECTION SERVICES, FACILITIES, AND PROGRAMS IN THE CITY OF COCONUT CREEK, FLORIDA; DESCRIBING THE METHOD OF ANNUALLY ASSESSING PROPERTY LOCATED WITHIN THE CITY OF COCONUT CREEK; PROVIDING AN ASSESSMENT FOR FISCAL YEAR 2021/2022; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; PROVIDING FOR THE ANNUAL ESTABLISHMENT OF A MAXIMUM ASSESSMENT; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Coconut Creek enacted an ordinance creating a Fire Rescue Non-Ad Valorem Assessment via an initial study performed in 2000 (Ordinance No. 2000-21, "Original Ordinance"); and

WHEREAS, the Original Ordinance was amended in 2007 via Ordinance No. 2007-20 to provide for an increase over the six percent (6%) maximum annual increase provided in the Original Ordinance by notice to benefitted property owners; and

WHEREAS, the Original Ordinance, as amended, was further amended in 2010 via Ordinance No. 2010-37 to provide for non-ad valorem assessment exemption for private educational institutions that were exempt from paying ad-valorem taxes; and

WHEREAS, the Original Ordinance, as amended, was further amended in 2016 via Ordinance No. 2016-026 to provide for the City Manager to have the authority to reclassify Tax Parcels or correct the amount of assessment and/or number of assessment units attributed to Tax Parcels to correct any error in applying the apportionment to any particular Tax Parcel; and

WHEREAS, the City of Coconut Creek undertook an updated Fire Rescue Non-Ad Valorem Study that was performed by Stantec (See FY 2022 Fire Rescue Protection

Non-Ad Valorem Assessment Study Report dated July 23, 2021, as amended August 31, 2021, attached hereto and adopted herein as Appendix A) and desires to update its Fire Rescue Non-Ad Valorem Assessment Original Ordinance, as amended, based on the results of that study; and

WHEREAS, the City of Coconut Creek desires that this ordinance shall supersede and replace all prior ordinances related to the City's Fire Rescue Non-Ad Valorem Assessment.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2: Authority. This ordinance is adopted pursuant to the provisions of Sections 166.021 and 166.041, 197.3631, 197.3632, 197.3635, Florida Statutes, and other applicable provisions of law.

Section 3: Purpose and Definitions. This ordinance constitutes the Updated Assessment Ordinance as authorized by the City Commission. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the ordinance. Unless the context clearly indicates otherwise, words imparting the singular number, include the plural number, and vice versa. As used in this ordinance, the following terms shall have the following meanings, unless the context hereof otherwise requires:

"Assessment or Non-Ad Valorem Assessment" means the annual benefit-based charge levied by the City on all non-exempt, benefitted real properties receiving fire rescue services within the City of Coconut Creek.

"Benefit Percentage" means the percentage of benefit for Rescue Protection Services, facilities or programs attributable to each Property Use Category determined by analyzing the benefit derived from: 1) the availability of Fire Rescue Protection Services and 2) historical demand for Fire Rescue Protection Services as reflected in the Summary of Fire Rescue Losses by Property Classification for the City of Coconut Creek as provided by the State of Florida State Fire Marshal pursuant to the National Fire Incident Reporting System under the methodology described in Section 7 of this Updated Assessment Ordinance.

"Building Area" means the adjusted area of a Building expressed in square feet and reflected on the Tax Roll or, in the event such information is not reflected or determined not to be accurately reflected on the Tax Roll, that area determined by the City.

"Calls for Service" means a request for service, which results in a response by the City's firesuppression apparatus.

"City Database" means the incident data specific to the City derived from the Summary of Fire Rescue Losses by Property Classification for the City of Coconut Creek as provided by the State of Florida State Fire Marshal pursuant to the National Fire Incident Reporting System correlated by the City Fire Rescue Protection officials.

"Code Descriptions" means the code descriptions listed in the DOR Codes.

"Commercial Property" means those Tax Parcels with DOR Codes classified in the "Commercial" property use category in Appendix B.

"Cost Apportionment" means the apportionment of the Fire Rescue Protection Assessed Cost among all Property Use Categories according to the Benefit Percentages established pursuant to the apportionment methodology described in Section 6 of this Updated Assessment Ordinance.

"DOR" means the State of Florida Department of Revenue.

"DOR Code" means a property use code established in Rule 12D-8.008, Florida Administrative Code, assigned by the Property Appraiser to Tax Parcels within the City as specified in Appendix B attached hereto and incorporated herein by reference.

" Dwelling Unit" means a building, available to be used for residential purposes, consisting of one or more rooms arranged, designed, used or intended to be used as living quarters for a single family only.

"Educational Property" means those Tax Parcels with DOR Codes classified in the "Educational" property use category in Appendix B.

"Equivalent Dwelling Unit" means a living unit expressed as a multiple or percentage of a dwelling unit.

" Fire Rescue Protection Assessment Rate Schedule" means that rate schedule attached hereto as Appendix D and hereby incorporated herein by reference, specifying the Fire Rescue Protection Assessed Costs determined and established in Section 9 of this Updated Assessment Ordinance.

"Fire Rescue Protection Services" means the twenty-four hour per day, seven days per week service for fire suppression maintained by the City of Coconut Creek for the protection of building area and value for all parcels serviced by the City of Coconut Creek.

"Industrial/Warehouse Property" means those Tax Parcels with DOR Codes classified in the "Industrial/Warehouse" property use category in Appendix B.

"*Institutional Property*" means those Tax Parcels with DOR Codes classified in the "Institutional" property use category in Appendix B.

"*Just Value*" means that value as defined pursuant to Article VII Section 4 of the State of Florida Constitution and Section 193.011, Florida Statutes.

"*Non-Residential Property*" means, collectively, Office Property, Commercial Property, Industrial/Warehouse Property, Institutional Property, and Educational Property.

"*Parcel Apportionment*" means the further apportionment of the Fire Rescue Protection Assessed Cost allocated to each benefited, non-exempt Property Use Category by the Parcel Apportionment methodology established in Section 8 of this Updated Assessment Ordinance.

"*Property Use Categories*" means, collectively, Residential Property and all categories of Non-Residential Property specified in Appendix B.

"*Residential Property*" means those Tax Parcels with DOR Codes classified in the "Residential" property use category in Appendix B.

"*Tax Parcel*" means a parcel of property located within the City to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

Section 4: Provision and Funding of Fire Rescue Protection Services.

(A) Upon the imposition of Fire Rescue Protection Assessments for Fire Rescue Protection Services, facilities, or programs against Assessed Property located within the City, the City shall provide Fire Rescue Protection Services to such Assessed Property. Costs to provide such Fire Rescue Protection Services, facilities, or programs shall be funded from proceeds of the Fire Rescue Protection Assessments. The remaining costs, if any, required to provide Fire Rescue Protection Services, facilities, and programs shall be funded by available City revenues other than Fire Rescue Protection Assessment proceeds.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property located within the City will be specially benefited, as defined by Florida case law, by the City's provision of Fire Rescue Protection Services, facilities, and programs in an amount not less than the Fire Rescue Protection Assessment imposed against such parcel, computed in the manner set forth in this Updated Assessment Ordinance.

(C) The constant and continued preparedness to provide Fire Rescue Protection Services, facilities, and programs possesses a logical relationship to the value, use and enjoyment of real property by: (1) protecting the value of the improvements and structures through the continual availability of fire rescue control and provision of fire rescue protection and associated rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of real property; (3) lowering

or stabilizing the cost of casualty or liability insurance by the presence of a professional municipal fire rescue protection and associated rescue program within the City; (4) providing protection for uninsured or underinsured property and property owners; and (5) containing the spread of fire rescue incidents, sometimes occurring on vacant or undeveloped property, with the potential to spread and endanger the structures and occupants of nearby improved property, thereby limiting liability.

Section 5: Imposition and Computation of Fire Rescue Protection Assessments. Fire Rescue Protection Assessments shall be imposed against all non-exempt, specially benefitted Tax Parcels within the Property Use Categories, except non-benefitted or exempt properties. Fire Rescue Protection Assessments shall be computed in the manner set forth in this Updated Assessment Ordinance.

Section 6: Legislative Determinations of Special Benefit and Fair Apportionment. It is hereby ascertained and declared that the Fire Rescue Protection Assessed Costs provide a special benefit to the Assessed Property based upon the following legislative determinations:

(A) *General.*

- (1) Upon the adoption of this Updated Assessment Ordinance determining the Fire Rescue Protection Assessed Costs and identifying the Assessed property to be included in the Assessment Roll, the legislative determinations of special benefit ascertained and declared in this Ordinance are hereby ratified and confirmed.
- (2) It is fair and reasonable to use the DOR Code as classified by property use category in Appendix B for the Cost Apportionment and the Parcel Apportionment because: (a) the Tax Roll database employing the use of such DOR Codes is the most comprehensive, accurate and reliable information readily available to determine the property use and Building Area for improved property within the City, and (b) the Tax Roll database employing the use of such DOR Codes is maintained by the Property Appraiser and is thus consistent with parcel designations on the Tax Roll which compatibility permits the development of an Assessment Roll in conformity with the requirements of the Uniform Method of Collection.
- (3) The parcel data available in the Tax Roll database by DOR Code is useful to determine Building Area and Just Value because (a) the DOR Codes reveal properly uses; and (b) the Tax Roll database represents parcel records maintained by the Property Appraiser with the most accurate information readily available relative to Building Area and Just Value regardless of property use.

(B) *Cost Apportionment.*

- (1) Apportioning Fire Rescue Protection Assessed Costs among classifications of improved property based upon: 1) availability of Fire Rescue Protection Services and 2) service benefit based on the number and type of incident calls for Fire Rescue Protection Services is fair and reasonable and proportional to the special benefit received.
- (2) The benefit derived by improved parcels from the availability of Fire Rescue Protection Services is related to the Building Area and the Just Value of the property by protecting against loss, providing for lower property casualty insurance rates, and securing property value.
- (3) Calls for Service within the City of Coconut Creek as reflected in the Summary of Fire Rescue Losses by Property Classification provide the most reliable basis available to determine the potential demand for Fire Rescue Protection Services from property use and to determine the benefit to property use resulting from the provision of Fire Rescue Protection Services to serve Buildings located within Assessed Property. There exists sufficient Calls for Service data documenting the historical demand for Fire Rescue Protection Services from Assessed Property within the Property Use Categories.
- (4) A Benefit Percentage determined for each Property Use Category by an examination of such Calls for Service and the availability of Fire Rescue Protection Service is consistent with the experience of the City. Therefore, the use of Benefit Percentages is a fair and reasonable method to apportion the Fire Rescue Protection Assessed Costs among the Property Use Categories.
- (5) Because the Building Area and Just Value of multi-family residential property are typically lower than for single-family residential property, multi-family assessments per dwelling unit should be proportionately lower than single-family assessments to reflect the lower special benefit received by multi-family units.
- (6) Because the Building Area and Just Value of mobile home residential property is typically lower than for single-family and multi-family residential property, mobile home assessments per dwelling unit should be proportionately lower than single-family or multi-family assessments to reflect the lower special benefit received by mobile home units.
- (7) As a result of the urbanized character of the City, the provision of Fire Rescue Protection Services to vacant or unimproved property is nominal. Therefore it is fair and reasonable not to apportion any of the Fire Rescue Protection Assessed Costs to vacant and unimproved property.

(C) *Residential Parcel Apportionment.*

- (1) The variation in size and value within the Single Family Residential Property Class does not materially affect the benefit received from Fire Rescue Protection Service. The potential demand for and benefit received from Fire Rescue Protection Services is driven by the existence of a Dwelling Unit.
 - (2) The variation in size and value of typical multi-family and mobile home residential property relative to the building area and value of typical single-family residential property does affect the benefit received from the Fire Rescue Protection Services. Therefore, apportioning the Fire Rescue Protection Assessed Costs for Fire Rescue Protection Services attributable to single-family, multi-family, and mobile home residential property on an Equivalent Dwelling Unit basis relative to typical building area and value is a fair and reasonable method of Parcel Apportionment.
- (D) *Non-Residential Apportionment.*
- (1) The separation of improved Non-Residential Property into Building Area classification ranges is fair and reasonable for the purposes of Parcel Apportionment because: (a) the absence of a need for precise square footage data within the ad valorem tax records maintained by the Property Appraiser makes it difficult to determine the use of actual Building Area within each improved parcel as a basis for Parcel Apportionment; (b) the administrative expense and complexity created by an on-site inspection to determine the actual Building Area within each improved parcel assessed is impractical; (c) the demand for Fire Rescue Protection Service availability is not precisely determined or measured by the actual Building Area within benefited parcels; and (d) the classification of parcels within Building Area classification ranges is a fair and reasonable method to classify benefited parcels and to apportion costs among benefited parcels that create similar demand for the availability of Fire Rescue Protection Services.
 - (2) The demand for availability of Fire Rescue Protection Services diminishes at the outer limit of Building size since a fire occurring in a structure greater than a certain size is not capable of being suppressed under expected conditions and the fire control activities under such circumstances are directed to avoid the spread of the fire event to adjacent Buildings. Therefore, it is fair and reasonable to place a cap on the Building Area classification of benefited parcels within Non Residential Property.

Section 7: Cost Apportionment Methodology.

(A) Appendix B contains a correlation of the DOR Codes with the property use categories within the City database. All property within the City Limits was identified and provided a Property Use Category pursuant to the DOR Code.

(B) It is hereby determined that fifty percent (50%) of the benefit derived from Fire Rescue Protection Services is related to the availability of Fire Rescue Protection Services, and fifty percent (50%) of the benefit derived from Fire Rescue Protection Services is related to the delivery of Fire Rescue Protection Services. Therefore, the cost of Fire Rescue Protection Services to be recovered by this assessment was allocated to availability benefit and service benefit in said proportion.

(C) Costs associated with availability are hereby allocated to property classes based upon the ratio of the value per square foot for each non-residential property class to the value per square foot for the residential property class. Costs associated with service are hereby allocated to property classes based upon Calls for Service to each property class weighted by: 1) the value per square foot for each property class; and 2) the ratio of the average square footage per parcel for each non-residential property class to the average square footage per parcel for the residential property class.

Section 8: Parcel Apportionment Methodology.

(A) The apportionment among Tax Parcels of that portion of the Fire Rescue Protection Assessed Costs apportioned to each Property Use Category under the Cost Apportionment shall be consistent with the Parcel Apportionment methodology described and determined in Appendix C, which Parcel Apportionment methodology is hereby approved, adopted and incorporated into this Updated Assessment Ordinance by reference.

(B) It is hereby acknowledged that the Parcel Apportionment methodology described and determined in Appendix C is to be applied in the calculation of the Fire Rescue Protection Assessment rates established in Section 9 of this Updated Assessment Ordinance.

Section 9: Determination of Fire Rescue Protection Assessed Costs; Establishment of Fire Rescue Protection Assessments.

(A) The Fire Rescue Protection Assessed Costs is to be assessed and apportioned among benefited parcels pursuant to the Cost Apportionment and the Parcel Apportionment for the Fiscal Year commencing October 1, 2021, in the amount determined in the Fire Rescue Protection Assessment Rate Schedule in Appendix D. The approval of the Fire Rescue Protection Assessment Rate Schedule by the adoption of this Updated Assessment Ordinance determines the amount of the Fire Rescue Protection Assessed Costs. The remainder of such Fiscal Year budget for Fire Rescue Protection Services, facilities, and programs shall be funded from available City revenue other than Fire Rescue Protection Assessment proceeds.

(B) The Fire Rescue Protection Services Assessments specified in the Fire Rescue Protection Assessment Rate Schedule in Appendix D are hereby established to fund the specified Fire Rescue Protection Assessed Costs determined to be assessed in the Fiscal Year commencing October 1, 2021, and continuing annually thereafter pursuant to this ordinance.

(C) The Fire Rescue Protection Services Assessments established in this Updated Assessment Ordinance shall be the assessment rates applied by the City Manager in the preparation of the preliminary Assessment Roll for the Fiscal Year commencing October 1, 2021, as provided in Section 10 of this Updated Assessment Ordinance.

(D) For the fiscal year commencing October 1, 2021, and years thereafter, Fire Rescue Protection Services Assessments for benefited properties may be increased annually by an amount not to exceed ten percent (10%) over the previous year's assessment. Any such increase shall be calculated by multiplying the percent increase by the immediately preceding fiscal year's assessment for benefited properties. The current fiscal year's assessment shall be calculated by adding the increase thus calculated to the preceding fiscal year's assessment, the resultant sum being the current fiscal year's assessment. Any such annual increases in Fire Rescue Protection Services Assessments shall be upon recommendation of the City Manager and approval of the City Commission. No individually benefited parcel shall have its assessments increased by a percent greater than any other benefited parcel in the same assessment class or in excess of the limits provided herein, as same may be amended from time to time.

Section 10: Assessment Roll.

(A) The City Manager is hereby directed to prepare, or cause to be prepared annually, a preliminary Assessment Roll for each Fiscal Year commencing October 1, 2021, in the manner provided in the ordinance. The Assessment Roll shall include all non-exempt Tax Parcels within the Property Use Categories. The City Manager shall apportion the Fire Rescue Protection Assessed Cost to be recovered through Fire Rescue Protection Assessments in the manner set forth in this Updated Assessment Ordinance. A copy of this Updated Assessment Ordinance, documentation related to the amount of the Fire Rescue Protection Assessed Cost to be recovered through the imposition of Fire Rescue Protection Assessments, and the preliminary Assessment Roll shall be maintained on file in the Office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the preliminary Assessment Roll be in printed form if the amount of the Fire Rescue Protection Assessment for each parcel of property can be determined by the use of a computer terminal available to the public.

(B) It is hereby ascertained, determined, and declared that the method of determining the Fire Rescue Protection Assessments for Fire Rescue Protection Services as set forth in this Updated Assessment Ordinance is a fair and reasonable method of apportioning the Fire Rescue Protection Assessed Cost among parcels of Assessed Property located within the City.

Section 11: Procedure to Reclassify, Correct, or Revise the Fire Rescue Protection Services Assessment for Tax Parcels.

The City Manager shall have the authority, at any time, upon his or her own initiative or in response to a petition from the owner of any Tax Parcel subject to a Fire Rescue Protection Services Assessment, to reclassify Tax Parcels or correct or revise the amount of the assessment and/or the number of assessment units attributed to Tax

Parcels, based upon presentation of competent and substantial evidence (which may include Property Appraiser data, site inspection, aerial photographs, etc.). and correct any error in applying the apportionment method approved herein to any particular Tax Parcel not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act due to (i) imposing a Fire Rescue Protection Services Assessment against a Tax Parcel not previously subject thereto, or (ii) increasing a Fire Rescue Protection Services Assessment imposed against a Tax Parcel above the amount specified in the mailed notice provided in accordance with Section 12 hereof. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Rescue Protection Services Assessment imposed hereunder. All requests from affected property owners for any such changes, Modifications, or corrections shall be referred to, and approved by, the City Manager and not the Property Appraiser or Tax Collector.

Section 12: Application of Multiple Property Use Categories for Tax Parcels with Mixed Uses.

The Fire Rescue Protection Services Assessment for Tax Parcels classified in two (2) or more property use categories shall be calculated as the sum of the Fire Rescue Assessments computed for each applicable property use identified.

Section 13: Authorization of Public Hearing.

There is hereby established a public hearing to be held at 7:00 p.m. on August 26, 2021, in the City Commission Chambers of City Hall, 4800 West Copans Road, Coconut Creek, Florida, at which time the City Commission will receive and consider any comments on the Fire Rescue Protection Assessments from the public and affected property owners and consider imposing Fire Rescue Protection Assessments and collecting such assessments on the same bill as ad valorem taxes.

Section 14: Notice by Publication.

The City Clerk shall publish a notice of the public hearing authorized by Section 11 hereof in the manner and time provided in Chapter 197, Florida Statutes.

Section 15: Notice by Mail.

The Finance and Administrative Services Department shall provide notice by first class mail to the Owner of each parcel of Assessed Property, as required by Chapter 197, Florida Statutes.

Section 16: Application of Assessment Proceeds.

Proceeds derived by the City from the Fire Rescue Protection Assessments will be utilized for the provision of Fire Rescue Protection Services, facilities, and programs. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund Fire Rescue Protection Services, facilities, and programs.

Section 17: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 18: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 19: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 9TH DAY OF AUGUST, 2021.

PASSED SECOND READING THIS 26TH DAY OF AUGUST, 2021.

Rebecca A. Tooley, Mayor

Attest:

Marianne Bowers, Interim City Clerk

	<u>1st</u>	<u>2nd</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>

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