

**ORDINANCE NO. 2018-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA RELATING TO THE PROVISION OF FIRE PROTECTION SERVICES, FACILITIES, AND PROGRAMS IN MARTIN COUNTY, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE PROTECTION ASSESSMENTS AGAINST PROPERTY; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE PROTECTION ASSESSMENT"; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE PROTECTION ASSESSMENTS; PROVIDING THAT FIRE PROTECTION ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A FIRE PROTECTION 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; PROVIDING FOR EXEMPTIONS AND HARDSHIP ASSISTANCE; PROVIDING FOR INTERIM ASSESSMENTS; PROVIDING A PROCEDURE FOR COLLECTION OF FIRE PROTECTION ASSESSMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, AS FOLLOWS:**

**PART 1. NEW ARTICLE 8, FIRE PROTECTION ASSESSMENT OF CHAPTER 79, FIRE PREVENTION AND PROTECTION, General Ordinances, Martin County Code is adopted to read as follows:**

## ARTICLE 8. FIRE PROTECTION ASSESSMENT

### DIVISION 1. INTRODUCTION

**Sec. 79.271. Definitions.** As used in this Article, 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 79.288, establishing the rate at which a Fire Protection Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Protection 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 protection services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

**"Assessment Roll"** means the special assessment roll relating to a Fire Protection Assessment approved by a Final Assessment Resolution pursuant to Section 79.286 or an Annual Rate Resolution pursuant to Section 79.288.

**"Board"** means the Board of County Commissioners of Martin County, Florida.

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

**"Building Department"** means the administrative office of the County designated by the Board to collect interim Fire Protection Assessments, or such office's designee.

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

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

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

**"County"** means Martin County, Florida.

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

**"Final Assessment Resolution"** means the resolution described in Section 79.286 which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Protection Assessments.

**"Fire Protection Assessment"** means a special assessment lawfully imposed by the Board against Assessed Property to fund all or any portion of the cost of the provision of fire protection services, facilities, or programs providing a special benefit to property as a

consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

**"Fire Protection Assessed Cost"** means the amount determined by the Board to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire protection services, facilities, 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, volunteer pay, 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 County to provide fire protection services; (M) all costs associated with the structure, implementation, collection, and enforcement of the Fire Protection Assessments, including any service charges of the Tax Collector or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Protection Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Protection Assessments collected pursuant to Section 79.302; (N) all other costs and expenses

necessary or incidental to the acquisition, provision, or construction of fire protection services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the Board by subsequent resolution; (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Protection Assessments; and (P) reimbursement to the County or any other Person for any moneys advanced for any costs incurred by the County or such Person in connection with any of the foregoing components of Fire Protection Assessed Cost.

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

**"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 79.282 which shall be the initial proceeding for the identification of the Fire Protection Assessed Cost for which an assessment is to be made and for the imposition of a Fire Protection Assessment.

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

**"Owner"** means 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 79.288 initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Protection Assessments pursuant to an Annual Rate Resolution.

**"Property Appraiser"** means the Martin County Property Appraiser.

**"Tax Collector"** means the Martin County Tax Collector.

**"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.

**"Uniform Assessment Collection Act"** means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

**Sec. 79.272. 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 Article; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Article. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**Sec. 79.273. General findings.** It is hereby ascertained, determined, and declared that:

Sec. 79.273.A. Pursuant to Article VIII, section 1, Florida Constitution, and sections 125.01 and 125.66, Florida Statutes, the Board has all powers of local self-government to perform county functions and to render county services in a manner not inconsistent with law, and such power may be exercised by the enactment of County ordinances.

Sec. 79.273.B. In addition to its powers of self-government, the Board is authorized by section 125.01(1)(q), Florida Statutes, to impose Fire Protection Assessments in all or a portion of the unincorporated area and within municipal areas through the creation of a municipal service benefit unit. The creation of a municipal service benefit unit which consists of any property situated within an incorporated area requires the consent of the affected municipality pursuant to section 125.01(1)(q), Florida Statutes. Additionally, the Board derives authority to impose Fire Protection Assessments within a municipal service benefit unit from the home rule power of counties in Article VIII, section 1(f), Florida Constitution, section 125.01, Florida Statutes, and specifically section 125.01(1)(r), Florida Statutes.

Sec. 79.273.C. This Article authorizes the imposition of Fire Protection Assessments through a municipal service benefit unit hereafter created in an Initial Assessment Resolution or Preliminary Rate Resolution adopted pursuant to this Article. Additionally and alternatively, this Article authorizes the imposition of a Fire Protection Assessment throughout a geographic area designated by the Board in an Initial Assessment Resolution or a Preliminary Rate Resolution, without requiring the creation of a new, or the use of an existing, municipal service benefit unit. This Article authorizes the

Board to designate all or a portion of the unincorporated area and municipal areas with such municipality's consent as a part of the municipal service benefit unit.

Sec. 79.273.D. The purpose of this Article is to (1) provide procedures and standards for the imposition of County Fire Protection Assessments under the general home rule powers of a county to impose special assessments; (2) authorize a procedure for the funding of fire protection services, facilities, or programs providing special benefits to property within the County; and (3) legislatively determine the special benefit provided to Assessed Property from the County's fire protection services program.

Sec. 79.273.E. The annual Fire Protection Assessments, to be imposed using the procedures provided in this Article, shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

Sec. 79.273.F. The Fire Protection Assessments to be imposed using the procedures provided in this Article are imposed by the Board, not the Clerk, Property Appraiser or Tax Collector. The duties of the Clerk, Property Appraiser and Tax Collector under the provisions of this Article and the Uniform Assessment Collection Act are ministerial.

**Sec. 79.274. Legislative determinations of special benefit.**

Sec. 79.274.A. It is hereby ascertained and declared that the fire protection services, facilities, and programs provide a special benefit to property because they possess a logical relationship to the use and enjoyment of property by: (1) protecting the value and integrity of improvements and structures through the provision of available fire protection services; (2) protecting the life and safety of intended occupants in the use and enjoyment of property; and (3) stabilizing or lowering the cost of fire insurance by the

presence of a professional and comprehensive fire protection services program within the County.

Sec. 79.274.B. The availability and provision of comprehensive fire protection services enhance and strengthen the relationship of such services to the use and enjoyment of the parcels of property, the market perception of the area and, ultimately, the property and rental values within the County.

**Secs. 79.275 – 79.280. Reserved.**

## DIVISION 2. ANNUAL FIRE PROTECTION ASSESSMENTS

### **Sec.79.281. General authority.**

Sec. 79.281.A. The Board is hereby authorized to impose an annual Fire Protection Assessment to fund all or any portion of the Fire Protection Assessed Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the County's provision of fire protection services, facilities, or programs. All Fire Protection Assessments shall be imposed in conformity with the procedures set forth in this Division 2.

Sec. 79.281.B. The amount of the Fire Protection 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 Protection Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire protection services, facilities, or programs funded with assessment proceeds.

Sec. 79.281.C. Nothing contained in this Article shall be construed to require the imposition of Fire Protection Assessments against Government Property.

### **Sec.79.282. Initial proceedings.**

Sec. 79.282.A. The initial proceeding for the imposition of a Fire Protection Assessment shall be the adoption of an Initial Assessment Resolution by the Board, (1) containing a brief and general description of the fire protection services, facilities, or programs to be provided, (2) determining the Fire Protection Assessed Cost to be assessed, (3) describing the method of apportioning the Fire Protection Assessed Cost and the computation of the Fire Protection Assessment for specific properties, (4) establishing

an estimated assessment rate for the upcoming Fiscal Year, (5) establishing a Maximum Assessment Rate, if desired by the Board, and (6) directing the County Administrator to (a) prepare the initial Assessment Roll, as required by Section 79.283, (b) publish the notice required by Section 79.284, and (c) mail the notice required by Section 79.285 using information then available from the Tax Roll.

Sec. 79.282.B. The Initial Assessment Resolution shall also sufficiently identify property that may be subject to the imposition of Fire Protection Assessments by designating a geographic area within the County where the County provides fire protection services, facilities and programs.

**Sec.79.283. Initial assessment roll.**

Sec. 79.283.A. The County 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 Protection Assessment to be imposed against each such parcel of Assessed Property.

Sec. 79.283.B. The initial Assessment Roll shall be retained by the County 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 Protection Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

**Sec.79.284. Notice by publication.**

Sec. 79.284.A. Upon completion of the initial Assessment Roll, the County Administrator shall publish, or direct the publication of, once in a newspaper of general circulation within the County a notice stating that at a meeting of the Board 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 Board 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.

Sec. 79.284.B. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

**Sec.79.285. Notice by mail.**

Sec. 79.285.A. In addition to the published notice required by Section 79.284, the County Administrator shall provide notice, or direct the provision of notice, of the proposed Fire Protection Assessment by first class mail to the Owner of each parcel of property subject to the Fire Protection Assessment.

Sec. 79.285.B. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

Sec. 79.285.C. 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. The County Administrator may provide proof of such notice by affidavit.

Sec. 79.285.D. 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 Protection Assessment imposed by the Board pursuant to this Article.

**Sec.79.286. Adoption of final assessment resolution.**

Sec. 79.286.A. At the public hearing as noticed pursuant to Sections 79.284 and 79.285, or to which an adjournment or continuance may be taken by the Board, the Board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Board adopt the Final Assessment Resolution which shall: (1) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Board; (2) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (3) establish a Maximum Assessment Rate that may be imposed in the event such rate was included in the Initial Assessment Resolution; (4) approve the initial Assessment Roll, with such amendments as it deems just and right; (5) determine the method of collection; and (6) if desired by the Board, create a municipal service benefit unit designating property that will be subject to the imposition of Fire Protection Assessments.

Sec. 79.286.B. The adoption of the Final Assessment Resolution by the Board shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire protection services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Protection Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.

Sec. 79.286.B. All written objections to the Final Assessment Resolution shall be filed with the County 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 Protection Assessments are imposed or reimposed hereunder.

**Sec.79.287. Effect of final assessment resolution.**

Sec. 79.287.A. The Fire Protection 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 Maximum Assessment Rate, if any; the initial Assessment Roll; and the levy and lien of the Fire Protection Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Final Assessment Resolution.

Sec. 79.287.B. 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 79.302 is used to collect the Fire Protection Assessments, such other official as the Board by resolution shall designate.

**Sec.79.288. Annual adoption procedures.**

Sec. 79.288.A. Annually, during the budget adoption process, the Board shall determine whether to continue the imposition Fire Protection Assessments for each Fiscal Year following the initial Fiscal Year. If the Board elects to continue imposing Fire Protection Assessments, the procedures in this Section 79.288 shall be followed.

Sec. 79.288.B. The initial proceedings for the reimposition of an annual Fire Protection Assessment shall be the adoption of a Preliminary Rate Resolution by the Board: (1) containing a brief and general description of the services, facilities, or programs to be provided; (2) determining the Fire Protection Assessed Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated assessment rate for the upcoming Fiscal Year; (4) establishing or increasing a Maximum Assessment Rate, if desired by the Board; (5) 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 (6) directing the County Administrator to (a) update the Assessment Roll, (b) provide notice by publication and first class 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 County.

Sec. 79.288.C. At the public hearing established in the Preliminary Rate Resolution or to which an adjournment or continuance may be taken by the Board, the Board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Board, adopt the Annual Rate Resolution, which 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 Board deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

Sec. 79.288.D. Nothing herein shall preclude the board from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 79.284 and 79.285 or any other method as provided by law.

Sec. 79.288.E. The Board may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Rate Resolution and confirm such Maximum Assessment Rate in the Annual Rate Resolution in the event notice of such Maximum Rate Assessment has been included in the notices required by Sections 79.284 and 79.285.

Sec. 79.288.F. In the event (1) the proposed Fire Protection Assessment for any Fiscal Year exceeds the rates of assessment adopted by the Board, including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property pursuant to Sections 79.284 and 79.285, (2) the purpose for which the Assessment is imposed or the use of the revenue from the Fire Protection Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 79.284 and 79.285, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Fire Protection Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 79.284 and 79.285, 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 first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 79.284 and 79.285 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 Protection Assessment imposed by the Board pursuant to this Article.

Sec. 79.288.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 establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Protection Assessment not challenged within the required 20-day period for those Fire Protection Assessments previously 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.

Sec. 79.288.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, or if the alternative method described in Section 79.302 is used to collect the Assessments, such other official as the Board by resolution shall designate. If the

Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

**Sec.79.289. Lien of fire protection assessments.** Upon the adoption of the Assessment Roll, all Fire Protection 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 Protection Assessment shall be deemed perfected upon the Board's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Protection 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 Protection Assessment collected under the alternative method of collection provided in Section 79.302 shall be deemed perfected upon the Board's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

**Sec.79.290. Revisions to fire protection assessments.** If any Fire Protection Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the Board is satisfied that any such Fire Protection Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board has failed to include or omitted any property on the Assessment Roll which property should have been so included, the Board may take all necessary steps to impose a new Fire Protection Assessment against any property

benefited by the Fire Protection Assessed Costs, following as nearly as may be practicable, the provisions of this Article and in case such second Fire Protection Assessment is annulled, vacated, or set aside, the Board may obtain and impose other Fire Protection Assessments until a valid Fire Protection Assessment is imposed.

**Sec.79.291. Procedural irregularities.** Any informality or irregularity in the proceedings in connection with the levy of any Fire Protection Assessment under the provisions of this Article shall not affect the validity of the same after the approval thereof, and any Fire Protection Assessment as finally approved shall be competent and sufficient evidence that such Fire Protection Assessment was duly levied, that the Fire Protection Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Protection Assessment were duly had, taken, and performed as required by this Article; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

**Sec.79.292. Correction of errors and omissions.**

Sec. 79.292.A. No act of error or omission on the part of the Property Appraiser, Tax Collector, County Administrator, Board, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Protection Assessment imposed by the Board under the provision of this Article.

Sec. 79.292.B. When it shall appear that any Fire Protection Assessment should have been imposed under this Article against a parcel of property specially benefited by the provision of fire protection 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 Board may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in Section 79.285, impose the applicable Fire Protection Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Protection Assessment due for the prior two Fiscal Years. Such Fire Protection 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 Division 3 of this Article, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted, delinquent, or corrected assessments.

Sec. 79.292.C. Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the County 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 Protection Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Protection 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 Protection Assessment imposed under the provisions of this Article. All requests from affected property owners for any such

changes, modifications or corrections shall be referred to, and processed by, the County Administrator and not the Property Appraiser or Tax Collector.

Sec. 79.292.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 County Administrator.

**Sec.79.293. Interim assessments.**

Sec. 79.293.A. An interim Fire Protection Assessment shall be imposed against all property for which a Certificate of Occupancy or Building Permit, as determined by the Board, is issued after the adoption of the Annual Rate Resolution. Issuance of the Certificate of Occupancy or Building Permit, as determined by the Board, by mistake or inadvertence, and without the payment in full of the interim Fire Protection Assessments shall not relieve the Owner of such property of the obligation of full payment. Any interim Fire Protection Assessment not collected prior to the issuance of the Certificate of Occupancy or Building Permit, as determined by the Board, may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 79.301, under the alternative collection method provided in Section 79.302 or by any other method authorized by law. Any interim Fire Protection Assessment shall be deemed due and payable on the date the Certificate of Occupancy or Building Permit, as determined by the Board, 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 liens, encumbrances,

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 Board.

Sec. 79.293.B. The amount of the interim Fire Protection 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 Protection Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. A credit shall be granted against the interim Fire Protection Assessment for any Fire Protection Assessment paid for the same property for the same time period. In addition to the monthly rate, the interim Fire Protection Assessment may also include an estimate of the subsequent Fiscal Year's Fire Protection Assessment.

Sec. 79.293.C. In the event the Board chooses to collect the interim Fire Protection Assessment at the time a Building Permit is issued, the following procedure shall apply:

1. In the event a Building Permit expires prior to completion of the Building for which it was issued, and the applicant paid the interim Fire Protection 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 Protection Assessment. Failure to timely apply for a refund of the interim Fire Protection Assessment shall waive any right to a refund.

2. The application for refund shall be filed with the County's Building Department and 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 interim Fire Protection Assessment was paid;
  - d. A copy of the receipt of payment for the Fire Protection 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 that the Building has not been completed, the County's Building Department shall refund the interim Fire Protection 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 Protection Assessment as required by this Section 79.293.

**Sec.79.294. Inclusion of municipal areas.**

Sec. 79.294.A. The areas provided fire protection services, facilities, and programs by the County and subject to the imposition of Fire Protection Assessments may include incorporated areas. However, any municipality not heretofore providing evidence of consent to such assessments by ordinance, shall evidence a request for inclusion and consent to such inclusion by ordinance in substantially the form attached hereto as Appendix A.

Sec. 79.294.B. Any municipal request or consent for inclusion given to the County shall thereafter be deemed given in advance and automatically renewed for each Fiscal Year thereafter unless such request and consent is timely withdrawn by the adoption of an ordinance abandoning the municipality's request and consent and providing a certified copy of such ordinance to the Board prior to May 1 preceding the Fiscal Year for which such request and consent is being withdrawn. Inclusion of any municipality shall be irrevocable for any Fiscal Year in which Fire Protection Assessments are levied by the County within an incorporated area.

**Sec.79.295. Authorization for exemptions and hardship assistance.**

Sec. 79.295.A. The Board, in its sole discretion, may determine on an annual basis whether to provide exemptions from payment of the Fire Protection Assessment for Government Property or Institutional Property whose use is exempt from ad valorem taxation under Florida law.

Sec. 79.295.B. The Board, in its sole discretion, may determine on an annual basis whether to provide a program of hardship assistance to County residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of the Fire Protection Assessments.

Sec. 79.295.C. If exemptions or hardship assistance are authorized, the Board shall designate the funds available to provide any such exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the Board. Any funds designated for exemptions or hardship assistance

shall be paid by the County from funds other than those generated by the Fire Protection Assessment.

Sec. 79.295.D. Any shortfall in the expected Fire Protection Assessment proceeds due to any hardship assistance or exemption from payment of the Fire Protection Assessments required by law or authorized by the Board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Fire Protection Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the Board is improper or otherwise adversely affects the validity of the Fire Protection Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Protection Assessment upon each affected Tax Parcel in the amount of the Fire Protection Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the Board.

**Secs. 79.296 – 79.300. Reserved.**

### DIVISION 3. COLLECTION AND USE OF FIRE PROTECTION ASSESSMENTS

#### **Sec.79.301. Method of collection.**

Sec. 79.301.A. Unless otherwise directed by the Board, the Fire Protection Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the County shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

Sec. 79.301.B. The amount of a Fire Protection Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted 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 Assessment Collection Act, (2) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Protection Assessment upon certification of a non-ad valorem roll to the Tax Collector by the County.

**Sec.79.302. Alternative method of collection.** In lieu of using the Uniform Assessment Collection Act, the Board may elect to collect the Fire Protection Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

Sec. 79.302.A. The Board shall provide Fire Protection 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 Protection Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Protection Assessment, (3) the number of units contained within the parcel, (4) the total amount of the Fire Protection 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 Protection Assessment is due, and (7) a statement that the Fire Protection 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.

Sec. 79.302.B. A general notice of the lien resulting from imposition of the Fire Protection 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.

Sec. 79.302.C. The Board shall have the right to foreclose and collect all delinquent Fire Protection 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 Protection Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Board or its agent shall notify any property owner who is delinquent in payment of his or her Fire Protection Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the Board 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 Protection 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 Protection 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.

Sec. 79.302.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 therein. At the sale pursuant to decree in any such action, the County may be the purchaser to the same extent as any Person. The Board or its agent may join in one foreclosure action the collection of Fire Protection Assessments against any or all property assessed in accordance with the provisions of this Article. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Board and its agents, including reasonable attorney fees, in collection of such delinquent Fire Protection Assessments and any other costs incurred by the Board as a result of such delinquent Fire Protection Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

Sec. 79.302.E. In lieu of foreclosure, any delinquent Fire Protection 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 Article, and (2) any existing lien of record on the affected parcel for the delinquent

Fire Protection Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

Sec. 79.302.F. Notwithstanding the Board's use of an alternative method of collection, the County Administrator shall have the same power and authority to correct errors and omissions as provided to him or other County officials in Section 79.292.

Sec. 79.302.G. Any Board action required in the collection of Fire Protection Assessments may be by resolution.

**Sec.79.303. Government property.**

Sec. 79.303.A. In the event Fire Protection Assessments are imposed against Government Property, the Board shall provide Fire Protection 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 Protection Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Protection Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Fire Protection Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Fire Protection Assessment is due.

Sec. 79.303.B. Fire Protection Assessments imposed against Government Property shall be due on the same date as all other Fire Protection Assessments and, if applicable, shall be subject to the same discounts for early payment.

Sec. 79.303.C. A Fire Protection Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Board shall notify the Owner of any Government Property that is delinquent in payment of its Fire Protection

Assessment within 60 days from the date such assessment was due. Such notice shall state that the Board will initiate a mandamus or other appropriate judicial action to compel payment.

Sec. 79.303.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 County, including reasonable attorney fees, in collection of such delinquent Fire Protection Assessments and any other costs incurred by the Board as a result of such delinquent Fire Protection Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

Sec. 79.303.E. As an alternative to the foregoing, a Fire Protection 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 Board may contract for such billing services with any utility, whether or not such utility is owned by the County.

**Secs.79.304 – 79.310. Reserved.**

#### DIVISION 4. GENERAL PROVISIONS

**Sec.79.311. Applicability.** This Article and the Board's authority to impose assessments pursuant hereto shall be applicable throughout the unincorporated area of the County and throughout the incorporated area of any municipality whose governing body has heretofore or hereafter requested and consented to the provision of the fire protection services, facilities and programs by the County.

**Sec.79.312. Alternative method.**

Sec. 79.312.A. This Article 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 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 Article, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes hereof.

Sec. 79.312.B. Nothing herein shall preclude the Board 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 County, (2) any notice required by this Article, or (3) any notice required by law, including the Uniform Assessment Collection Act.

**PART 2. 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.

PART 3. **CODIFICATION IN THE CODE OF ORDINANCES.** It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Martin County Code of Ordinances and that the sections of this Ordinance may be renumbered to accomplish such intent, except that Parts 2 to 4 and Appendix A shall not be codified.

PART 4. **EFFECTIVE DATE.** The Clerk shall file a certified copy of this Ordinance with the Department of State within ten days of its execution. This Ordinance shall take effect immediately upon its filing with the Department of State.

**DULY ENACTED** this 24th day of July, 2018.

**BOARD OF COUNTY COMMISSIONERS  
OF MARTIN COUNTY, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
Edward V. Ciampi, Chairman

ATTEST:

\_\_\_\_\_  
Carolyn Timmann, Clerk of the  
Circuit Court and Comptroller

Approved as to Form and Legal Sufficiency:

By: \_\_\_\_\_  
Sarah W. Woods  
County Attorney

**APPENDIX A**

**FORM OF MUNICIPAL REQUEST AND CONSENT ORDINANCE**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE [CITY OR TOWN OF] [city], FLORIDA, REQUESTING AND CONSENTING TO THE INCLUSION OF ALL OF [city] WITHIN A MUNICIPAL SERVICE BENEFIT UNIT OR OTHER SPECIFIC GEOGRAPHIC AREA DESIGNATED BY MARTIN COUNTY TO PROVIDE FIRE PROTECTION SERVICES; PROVIDING FOR ANNUAL RENEWAL OF SUCH REQUEST AND CONSENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE [CITY OR TOWN] [Council or Commission] OF [city],**

**FLORIDA:**

**SECTION 1.01. FINDINGS.** It is hereby ascertained, determined, and declared that:

(A) The Board of County Commissioners of Martin County, Florida (the "County"), plans to enact an ordinance authorizing the County to create or identify a municipal service taxing or benefit unit or other specific geographic area within which the County imposes and collects assessments for fire protection services within incorporated and unincorporated areas of the County.

(B) The **[City or Town] [Council or Commission]** of **[city]** has determined that the inclusion of the incorporated area of **[city or town]** within such municipal service benefit unit or specific geographic area by the County for the purpose of providing fire protection services is in the best interests of the owners of property within the corporate limits of **[city]**.

**SECTION 1.02. REQUEST AND CONSENT OF [city].** The **[City or Town] [Council or Commission]** of **[city]** hereby requests and consents to the inclusion of all of the incorporated area of **[city]** within an identified municipal service taxing or benefit unit or

specific geographic area to be created or identified by the County to provide fire protection services, facilities, and programs and to the imposition of a special assessment by the County to fund such fire protection services, facilities and programs. Such request and consent shall become effective upon adoption of this ordinance for the upcoming fiscal year. The **[City or Town] [Council or Commission]** finds that the provision of fire protection services is an essential municipal purpose.

**SECTION 1.03. ANNUAL RENEWAL OF REQUEST AND CONSENT.** Request and consent of the **[City or Town] [Council or Commission]** of **[city]** given to the County by this Ordinance shall be deemed given in advance for each fiscal year hereafter and shall be automatically renewed for each succeeding fiscal year unless such request and consent is subsequently withdrawn as provided herein. Request and consent shall be irrevocable for any fiscal year in which the subject fire protection service assessments are levied by the County within the incorporated area. **[city]** may only withdraw such consent for any subsequent fiscal year by adopting an ordinance abandoning its consent and providing a certified copy of such ordinance to the County prior to May 1 preceding the fiscal year for which consent is being withdrawn.

**SECTION 1.04. 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 1.05. EFFECTIVE DATE.** This Ordinance shall take effect as provided by law.

**PASSED AND ADOPTED** on First Reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**PASSED AND ADOPTED** on Second and Final Reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

(SEAL)

**[CITY OR TOWN] [Council or Commission] OF [CITY], FLORIDA**

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
CLERK