



MEMORANDUM

Office of the City Attorney

Legistar No. 990209

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commissioners

DATE: September 13, 1999
FIRST READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-99-74

An ordinance of the City of Gainesville, Florida, amending section 16-29 of the Code of Ordinances relating to assessing liens for work done demolishing dangerous structures or cleaning hazardous lands, providing for notice of a lien for the out-of-pocket costs of work done and recording of the lien in the public records; repealing provisions mandating a hearing before the city commission and levy of a special assessment; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

At its meeting of July 12, 1999, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance relating to assessing liens on properties where the City has demolished or repaired one or more dangerous buildings or cleaned up hazardous lands. Since the summer of 1997, staff has caused 75 houses to be demolished. The current ordinance requirements are costly to the City and difficult to process. Changing the ordinance will make the process for recapturing City funds spent for demolitions, repairs and cleanups less expensive.

Prepared by:

Patricia M. Carter
Sr. Assistant City Attorney

Approved and
Submitted by:

Marion J. Radsen
City Attorney

MJR:PMC:sw

Ordinance No. 0-99-74

An ordinance of the City of Gainesville, Florida, amending section 16-29 of the Code of Ordinances relating to assessing liens for work done demolishing dangerous structures or cleaning hazardous lands, providing for notice of a lien for the out-of-pocket costs of work done and recording of the lien in the public records; repealing provisions mandating a hearing before the city commission and levy of a special assessment; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Section 16-29 of the Code of Ordinances is amended to read as follows:

Sec. 16-29. Assessing liens.

(a) *Billing and notice.* Promptly after completion of any demolition, repairs, alterations, clearing, or clean-up done by the city under authority of this article, the enforcing official shall cause the owner to be billed for the cost of the work-including advertising costs, labor, materials, and title searches and other out-of-pocket expenses.

The bill shall be served upon the owner by delivery to him/her personally or by certified mail, return receipt requested, at his/her last known address as shown on the city tax rolls,

1 and shall become an account receivable on the books of the city. If the bill is not paid
2 within 90 days after the end of the month in which it is invoiced, the city manager or
3 designee may refer the account to a collection agency. If the collection agency does not
4 collect the amount due within 90 days of the referral, or the city manager or designee
5 decides not to refer the account to a collection agency, the owner shall be notified by the
6 enforcing official of the intention to record a lien ~~apply for a special assessment~~ against
7 the property. The notice shall:

8 (1) Describe the premises involved either by legal description or street
9 address;

10 (2) Describe the nature of the work done thereon and state the amount for
11 which a lien ~~special assessment~~ is being made; and sought;

12 (3) Be served on the owner of record in the manner set forth above for service
13 of the notice of violation. If service of the notice of violation could only be
14 achieved by publication and the enforcing official has no reason to believe that
15 notice of the intent to record a lien can be successfully provided by any other
16 means, publication shall be the sole method used to serve the notice of intent to
17 record a lien.

18 (3) ~~Specify the date on which the city commission will hold a public hearing~~
19 ~~for the purpose of making a special assessment against the property for the cost of~~
20 ~~the work done thereon, and advise the owner of his/her right to be heard on any~~
21 ~~matter pertaining to the proposed special assessment; and~~

22 (4) ~~Be served on the owner not less than five days prior to the date set for the~~
23 ~~hearing in the same manner as set forth above in this section.~~

1 (b) Recording lien. If the amount due is not paid within five days of service of the
2 date of delivery of the notice of lien or publication in a newspaper, the lien shall be
3 recorded in the public records of Alachua County, Florida. Such lien shall be prior to all
4 other liens except taxes and shall be of equal dignity with special assessments made for
5 other public purposes, and may be foreclosed as mortgages are foreclosed.

6 ~~(b) Hearings.~~ At the hearing, the enforcing official shall report to the city commission
7 on the nature of the work accomplished, the cost of the work, and the service of the
8 required notice. All interested parties shall be given an opportunity to be heard at the
9 hearing with respect to the validity and amount of the proposed special assessment.

10 ~~(c) Levy by city commission.~~ After the hearing, the city commission may levy a
11 special assessment against the property improved for the cost of the work done on the
12 property in such amount as the commission may find to be proper and reasonable. The
13 assessments shall be made by the adoption of a resolution containing findings of the city
14 commission, including the finding that (a) the procedures of this article have been
15 followed, (b) the work done was in conformity with the requirements of this article, and
16 (c) the amount of assessment is just and reasonable and based on the actual cost of the
17 work. The resolution shall contain a legal description of the property, the names of the
18 owners of the property, the rate of interest which the assessment shall bear, and such
19 other information as may be deemed appropriate. The assessment shall become effective
20 immediately upon the adoption of the resolution. Upon the adoption of the resolution, the
21 city shall have a lien against the property on which the work was done and on the real
22 estate on which it is located, as described in the resolution, which lien shall be of equal
23 dignity with other municipal liens for taxes, levies, and assessments and may be enforced

1 as other such municipal liens. The owner may pay the amount of the lien, including
2 interest, in thirty (30) equal, consecutive, monthly installments, commencing on the first
3 day of the month following the adoption of the resolution.

4 ~~(d) — *Notice of adoption of resolution.* A copy of the resolution shall be served on the~~
5 ~~owner by certified mail within ten (10) days of the date of its adoption, and a copy shall~~
6 ~~be published once each week for four (4) consecutive weeks in a newspaper of general~~
7 ~~circulation within the city. The resolution shall also be filed in the public records of~~
8 ~~Alachua County after publication has occurred.~~

9 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
10 this Ordinance shall become and be made a part of the Code of Ordinances of the City of
11 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
12 renumbered or relettered in order to accomplish such intentions.

13 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
14 or unconstitutional by any court of competent jurisdiction, then said holding shall in no
15 way affect the validity of the remaining portions of this ordinance.

16 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
17 such conflict hereby repealed.

18 **Section 5.** This ordinance shall be effective immediately upon final adoption.

19 **PASSED AND ADOPTED** this _____ day of _____, 1999.
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22 _____
23 PAULA M. DeLANEY
24 MAYOR
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ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this _____ day of _____, 1999.

This Ordinance passed on second reading this _____ day of _____,
1999.

carter:ordinances:0-99-74 assessing liens (Ch 16)