

ORDINANCE 14-05

AN ORDINANCE OF THE CITY OF DUNEDIN CREATING ARTICLE IV IN CHAPTER 34 OF THE CODE OF ORDINANCES, TO BE TITLED "CHRONIC NUISANCE PROPERTY CODE," RELATING TO THE PROVISION OF CHRONIC NUISANCE SERVICES BY THE CITY; AUTHORIZING THE IMPOSITION AND COLLECTION OF CHRONIC NUISANCE SERVICE ASSESSMENTS AGAINST REAL PROPERTY; ESTABLISHING A PROCEDURE FOR IMPOSING CHRONIC NUISANCE SERVICE ASSESSMENTS; PROVIDING THAT THE LIEN FOR A CHRONIC NUISANCE SERVICE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, SHALL BE PERFECTED AND SHALL ATTACH TO THE PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLL; 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 A CODIFICATION CLAUSE; PROVIDING A CONFLICTS AND SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Commission finds that chronic nuisance properties disproportionately consume city services and impose an economic and social burden on properties within the city; and

WHEREAS, the City Commission finds that chronic nuisance properties receive special services that extend beyond general law enforcement activities or the general enforcement of municipal codes; and

WHEREAS, the City Commission has taken notice of the *City of Milwaukee Chronic Nuisance Property Code*, the *West Palm Beach Chronic Nuisance Property Code* and the *City of Madeira Beach Chronic Nuisance Property Code*; and

WHEREAS, the Florida Constitution, Municipal Home Rule Powers Act and Charter of the City of Dunedin, Florida, authorize the City Commission to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City Commission finds that the provision of chronic nuisance services by the City provides a direct, special benefit to assessed real property; and

WHEREAS, the City Commission finds that there is a logical relationship between the provision of chronic nuisance services by the City and an enhancement in the value and desirability of assessed real property; and

WHEREAS, the City Commission finds that the adoption of the *City of Dunedin Chronic Nuisance Property Code* is in the best interests of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DUNEDIN, FLORIDA:

SECTION 1. The City Commission of the City of Dunedin, Florida, hereby ascertains, finds, determines and declares that:

(a) Pursuant to Fla. Const. art. VIII, section 2(b), F.S. §§ 166.021 and 166.041, and City Charter art. I, section 1.01, the city commission has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law. Such powers may be exercised by the enactment of city ordinances.

(b) The city commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law. The city commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in F.S. §§ 166.021(3)(a), (b) and (c). The subject matter described in F.S. §§ 166.021(3)(a), (b) and (c), is not relevant to the imposition of special assessments related to the provision of chronic nuisance services by the City.

(c) Chronic nuisance properties disproportionately consume city services and impose an economic burden on properties within the city.

(d) Chronic nuisance properties place a substantial, unacceptable threat and burden on the common health, safety and welfare of the residents and businesses within the city.

(e) The abatement of chronic nuisances by the city is a municipal service.

(f) Chronic nuisance properties receive special services that extend beyond general law enforcement activities or the general enforcement of municipal codes.

(g) The provision of chronic nuisance services by the city and elimination of chronic nuisances possesses a logical relationship to the use and enjoyment of the benefited real property and provides a direct, special benefit to real property by:

(1) reducing or deferring property maintenance costs;

(2) reducing or deferring property management costs;

- (2) reducing or deferring property management costs;
- (3) eliminating unsanitary and unsightly conditions; and
- (4) eliminating the invitation of on-site criminal activities;
- (5) protecting the health and safety of the occupants;
- (6) protecting the value of the real property; and
- (7) enhancing market perceptions.

(h) The cost of abating chronic nuisances shall be entirely apportioned to the benefited real property receiving the chronic nuisance service.

(i) The cost of abating chronic nuisances may be levied against benefited real property as a special assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes

(j) The special assessments to be levied using the procedures provided in this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of F.S. § 197.3632.

(k) The special assessments to be levied using the procedures provided in this Ordinance are imposed by the city commission. The duties of the property appraiser and tax collector under the provisions of this Ordinance and F.S. § 197.3632 are ministerial.

SECTION 2: The City Commission of the City of Dunedin, Florida, hereby establishes and adopts the City of Dunedin Chronic Nuisance Property Code, Chapter 34 (Environment), Article IV (Chronic Nuisance Property Code), Sections 34-71 through 34-98, of the Code of Ordinances, which shall read as follows:

ARTICLE IV. CHRONIC NUISANCE PROPERTY CODE.

DIVISION 1. CHRONIC NUISANCE SERVICES.

Sec. 34-71. Short title.

This article shall be known as the "City of Dunedin Chronic Nuisance Property Code" or "chronic nuisance property code."

Sec. 34-72. Pattern of nuisance activity.

(a) *Nuisance activity.* Nuisance activity means any activities relating to the following violations, whenever engaged in by the property owner, agent, tenant, or invitee of the property owner, agent or tenant:

Dunedin Land Development Code

- (1) Chapter 34, article I, section 34-1 – offensive accumulation
- (2) Chapter 34, article II, section 34-31 – excessive growth of weeds, grasses or turf
- (3) Chapter 34, article II, section 34-32 – premises to be kept clean of offensive accumulation
- (4) Chapter 34, article III, section 34-61 – junked, wrecked, abandoned property
- (5) Chapter 105, division 6, section 105-61.5 – boat parking
- (6) Chapter 105, division 6, section 105-61.5 – trailer parking
- (7) Chapter 105, division 6, section 105-61.5 – recreational vehicle parking
- (8) Chapter 105, division 6, section 105-61.5 – parking on grass
- (9) Chapter 107, division 4, section 107-41 - noise

International Property Maintenance Code

- (1) Chapter 1, Section 108.1.5 – Dangerous Structure or Premises
- (2) Chapter 3, Section 301.3 – Vacant Structures and Land
- (3) Chapter 3, Section 302 – Exterior Property Areas (all subparagraphs)
- (4) Chapter 3, Section 303.1 – Swimming pools
- (5) Chapter 3, Section 303.2 – Enclosures
- (6) Chapter 3, Section 304 – Exterior Structure (all subparagraphs)
- (7) Chapter 3, Section 308 – Rubbish and Garbage (all subparagraphs)

Florida State Statutes

- (1) F.S. § 562.111 - possession of alcoholic beverages by persons under age 21 prohibited
- (2) F.S. § 767.12 - dangerous dogs
- (3) F.S. § 784.011 - assault
- (4) F.S. § 784.041 - felony battery; domestic battery by strangulation

- (5) F.S. § 784.045 - aggravated battery
- (6) F.S. § 790.15(1) - discharging firearm in public
- (7) F.S. § 796.06 - renting space to be used for prostitution
- (8) F.S. § 796.07 - prostitution
- (9) F.S. § 800.03 - exposure of sexual organs
- (10) F.S. § 806.13 - criminal mischief
- (11) F.S. § 810.02 - burglary
- (12) F.S. § 810.08 - trespass in structure or conveyance
- (13) F.S. § 810.09 - trespass on property other than structure or conveyance
- (14) F.S. § 812.014 - theft
- (15) F.S. § 812.019 - dealing in stolen property
- (16) F.S. § 812.13 - robbery
- (17) F.S. § 812.173 - convenience business security
- (18) F.S. § 823.01 - nuisances
- (19) F.S. § 828.12 - cruelty to animals
- (20) F.S. § 843.20 - harassment of a participant of a neighborhood crime watch program
- (21) F.S. § 856.011 - disorderly intoxication
- (22) F.S. § 856.015 - open house parties
- (23) F.S. § 856.021 - loitering or prowling
- (24) F.S. § 856.022 - loitering or prowling in close proximity to children
- (25) F.S. ch. 874 - criminal gang enforcement and prevention
- (26) F.S. § 877.03 - breach of the peace; disorderly conduct
- (27) F.S. ch. 893 – any offense under the Florida Comprehensive Drug Abuse Prevention & Control Act
- (28) Any other offense under state or federal law that is punishable by a term of imprisonment exceeding one year.

(b) *Pattern of nuisance activity.* Real property shall be deemed to exhibit a pattern of nuisance activity if:

- (1) the Sheriff's Department has responded to three or more nuisance activities at the property within thirty days; or
- (2) the Sheriff's Department has responded to seven or more nuisance activities at the property within six months; or
- (3) the Sheriff's Department has responded to five or more nuisance activities at a commercial retail business or alcoholic beverage establishment within thirty days or twenty or more nuisance activities at the said properties within six months; or
- (4) failure to correct code violations by the time ordered by the Code Enforcement Board in any order entered pursuant to section 22-78 of this code; or
- (5) as otherwise provided by this code;

(c) *Construction and application.* Pattern of nuisance activity shall not be construed to include:

- (1) a nuisance activity where the property owner, agent, tenant, or invitee of the property owner, agent or tenant is the victim of a crime;
- (2) a nuisance activity that does not arise from the conduct of the property owner, agent, tenant, or invitee of the property owner, agent or tenant; or
- (3) a complaint or call for service to which the Sheriff's Department responded and determined that no violation was committed.

(d) *Separate occurrences.* For purposes of this article, each day that the Sheriff's Department responds to a nuisance activity at the property shall be a separate occurrence.

Sec. 34-81. Declaration of chronic nuisance property; action plan.

(a) *Declaration of chronic nuisance property.* If a pattern of nuisance activity exists upon real property, the city may declare the property to be a chronic nuisance. The city shall notify the property owner by certified mail, return receipt required and by first class mail to the address listed on the ad valorem tax roll. Notice shall be posted at the property where the nuisance activities occurred. The declaration of chronic nuisance property shall contain at least the following information:

- (1) A reference to chapter 34, article IV (the "City of Dunedin Chronic Nuisance Property Code");

- (2) The address and parcel control number of the property;
- (3) The dates that the nuisance activities occurred at the property;
- (4) A description of the nuisance activities;
- (5) A statement that the property owner is required to provide the city with a written action plan outlining the specific measures that the property owner will take to curtail or eliminate the re-occurrence of nuisance activities on the property. A statement that the action plan must be provided to the city no later than fifteen days from the date of the declaration of chronic nuisance property;
- (6) A statement that failure to provide the city with a timely written action plan will result in a violation of this article and the entry of a chronic nuisance service order by the code enforcement board;
- (7) A statement that the costs of any chronic nuisance services provided by the city to a property that has been declared to be a chronic nuisance may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
- (8) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.

(b) *Development of action plan.* The property owner shall provide the city with a written action plan outlining the specific measures that the owner will take to curtail or eliminate the re-occurrence of nuisance activities at the property. The property owner shall provide the action plan to the city no later than fifteen days from the date of the declaration of chronic nuisance property. Failure to provide the city with a timely action plan shall be a violation of this article.

(c) *Adequacy and implementation of action plan.* If the city determines that the action plan is adequate to curtail or eliminate the re-occurrence of nuisance activities on the property, the city shall notify the property owner by certified mail, return receipt required and first class mail. The city shall establish a reasonable time period not exceeding forty-five days from the date that the action plan is determined to be adequate to implement the action plan. The city may extend the time period beyond forty-five days if additional time is necessary to implement the action plan. Failure to implement the action plan within the time period established by the city shall be a violation of this article. If the property owner implements the action plan within the time period established by the city, the declaration of chronic nuisance will be closed and no further action shall be required, except that the city may require the property owner to revise the action plan in the event that a nuisance activity re-occurs.

(d) *Revision of inadequate action plan.* If the city determines that the action plan is not adequate to curtail or eliminate the re-occurrence of nuisance activities on the property, the city may require the property owner to revise the action plan. The property owner shall provide the revised action plan to the city no later than ten days from the date that the action plan is determined to be inadequate. Failure to revise the action plan or to provide the city with a timely revised action plan shall be a violation of this article. The provision of an inadequate action plan on three consecutive occasions shall be a violation of this article and may result in the entry of a chronic nuisance service order against the property.

(e) *Factors determining adequacy of action plan.* Factors to be considered in determining the adequacy of an action plan may include, but shall not be limited to:

- (1) commencement of an eviction action pursuant to chapter 83, Florida Statutes to remove from the property those individuals engaged in the nuisance activity;
- (2) implementation of crime prevention through environmental design (CPTED) measures;
- (3) frequency of site visits and inspections at various times of both day and night;
- (4) hiring of property management;
- (5) hiring of private security;
- (6) installation of security cameras;
- (7) use of a written lease agreement;
- (8) criminal background checks for prospective tenants and lease renewals;
- (9) posting of 'no trespassing' signs at the property and execution of a 'no trespass affidavit' authorizing the police department to act as an agent of the property owner to enforce trespass statutes on the property;
- (10) regular requests for offense and incident reports relating to the property that are available through the records custodian of the Sheriff's Department records division;
- (11) written documentation of all efforts to curtail or eliminate the re-occurrence of nuisance activities on the property;
- (12) any other action that the city determines is reasonably sufficient to curtail or eliminate the re-occurrence of nuisance activities on the property.

Sec. 34-82. Notice of violation.

(a) *Notice of violation.* If the property owner fails to satisfy any requirement of this article, the city shall notify the property owner by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll. The notice of violation shall be posted at the property where the nuisance activities occurred. The notice of violation shall contain at least the following information:

- (1) The address and parcel control number of the property;
- (2) A description of the facts constituting a violation of this article;
- (3) A statement that the property has been declared to be a chronic nuisance;
- (4) A statement that unless the property owner files a timely request for hearing pursuant to section 34-83, the property owner shall be deemed to have waived the right to contest the notice of violation;
- (5) A statement that the costs of any unpaid chronic nuisance services provided by the city may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
- (6) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.

Sec. 34-83. Request for hearing.

(a) *Request for hearing.* A property owner may request a hearing before the code enforcement board upon receipt of a declaration of chronic nuisance property or notice of violation regarding the action plan. A request for hearing shall be filed with the city and shall:

- (1) Be in writing;
- (2) Provide a short, plain statement identifying the factual, procedural or legal error upon which the request for hearing is based; and
- (3) Include a copy of the declaration of chronic nuisance property or notice of violation.

(b) *Time for filing a request for hearing.* A request for hearing shall be filed with the city within fifteen days from the date of the declaration of chronic nuisance property or fifteen days from the date of the notice of violation regarding the action plan.

(c) *Waiver of right to contest.* If the owner of a chronic nuisance property fails to file a timely request for hearing, the property owner shall be deemed to have waived the right to contest the declaration of chronic nuisance property or notice of violation.

(d) *Hearing by the code enforcement board.* Upon receipt of a timely request, the city shall schedule a hearing before the code enforcement board. The hearing shall be limited to the review of the record or evidence upon which the city based the declaration of chronic nuisance property or notice of violation regarding the action plan.

(e) *Decision of the code enforcement board.* After reviewing the record or evidence upon which the city based its determination, the code enforcement board shall either uphold or reject the declaration of chronic nuisance property or notice of violation regarding the action plan, as appropriate. The decision of the code enforcement board shall be in writing and shall be deemed final. If the code enforcement board upholds the notice of violation, the code enforcement board shall immediately enter a chronic nuisance service order in accordance section 34-84. If the code enforcement board rejects the notice of violation, the code enforcement board shall identify the factual, procedural or legal error upon which the decision is based. Notwithstanding, the property owner shall be required to submit and implement an action plan in accordance with section 34-81 if the code enforcement board finds that a pattern of nuisance activity occurred at the property.

Sec. 34-84. Entry of chronic nuisance service order.

(a) *Chronic nuisance service order.* If a timely request for hearing has not been filed pursuant to section 34-83 and a notice of violation has been issued, the code enforcement board shall enter a chronic nuisance service order. If the code enforcement board upholds the declaration of chronic nuisance property or determines after a hearing that there has been a failure to provide or implement an adequate action plan, the code enforcement board shall enter a chronic nuisance service order. The city shall provide a copy of the chronic nuisance service order to the property owner by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll. The chronic nuisance service order shall:

- (1) Enter findings of fact establishing a pattern of nuisance activity and violation of this article;
- (2) Authorize the city to provide chronic nuisance services to the property;
- (3) Authorize the city to bill the costs of any chronic nuisance services to the owner of the chronic nuisance property;
- (4) Provide for the mailing of a copy of the chronic nuisance service order by certified mail, return receipt required and first class mail to any

mortgagee of record. Failure to provide a copy of the chronic nuisance service order to a mortgagee of record shall not operate to release or discharge any obligation under this article or otherwise affect the validity of a chronic nuisance service order;

- (5) Provide for the recording of a certified copy of the chronic nuisance service order in the public records; and
- (6) Provide for continuing jurisdiction over the chronic nuisance property.

(b) *Duration of chronic nuisance service order.* The chronic nuisance service order entered in accordance with this section shall terminate if there have been no nuisance activities at the property for one year.

Sec. 34-85. Abatement of chronic nuisances; provision of services; apportionment.

(a) *Abatement by city.* The city may abate chronic nuisances on real property by providing chronic nuisance services to curtail or eliminate the re-occurrence of nuisance activities. The costs of such chronic nuisance services shall be billed to the property owner in accordance with section 34-86 and such costs may be collected by the city by any legal means.

(b) *Apportionment.* Chronic nuisance service costs shall be entirely apportioned to the assessed real property receiving the chronic nuisance service.

Sec. 34-86. Establishment of costs; billing of costs; notice of delinquency.

(a) *Chronic nuisance service costs to be established by resolution.* All chronic nuisance service costs shall be established by resolution of the city commission. No chronic nuisance service cost shall be modified other than by resolution of the city commission. Chronic nuisance service costs shall only be in the amounts established by resolution of the city commission.

(b) *Billing of chronic nuisance service costs.* The city shall bill all chronic nuisance service costs to the owner of the chronic nuisance property by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll. The bill shall contain at least the following information:

- (1) The address and parcel control number of the chronic nuisance property;
- (2) The date of each chronic nuisance service;
- (3) A brief description of each chronic nuisance service;
- (4) The amount of the bill for each chronic nuisance service;

- (5) A statement that the total amount of the bill shall be paid to the city within thirty days from the date of the bill and that any chronic nuisance service cost which has not been paid within thirty days from the date of the bill shall be delinquent;
- (6) A statement that that any unpaid chronic nuisance service costs will be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
- (7) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.

(c) *Notice of delinquency.* The total amount of the bill shall be paid to the city within thirty days from the date of the bill. Any chronic nuisance service cost which has not been paid within thirty days from the date of the bill shall be delinquent. If the property owner fails to pay the total amount of the bill within thirty days from the date of the bill, the city shall notify the property owner of the delinquency. The notice of delinquency shall be by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll and shall contain at least the following information:

- (1) The address and parcel control number of the property;
- (2) The amount of the delinquent billings, individual and total;
- (3) A statement that that any unpaid chronic nuisance service costs will be levied as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
- (4) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.

(d) *Construction of chronic nuisance service cost.* Chronic nuisance service costs shall not include any amount attributable to general law enforcement activities or the general enforcement of municipal codes upon a property that has not been declared by the city to be a chronic nuisance and that has not received a chronic nuisance service order from the code enforcement board.

Sec. 34-87. Method of notice; construction.

(a) *Notice.* Unless otherwise provided, notice required by this article shall be by certified mail, return receipt required and by first class mail to the address listed

on the ad valorem tax roll. Notice shall be posted at the property where the nuisance activities occurred.

(b) *Construction of notice.* A property owner shall be deemed to have notice of a nuisance activity if that property owner (1) has actual knowledge of the nuisance activity; (2) has received notice of the nuisance activity; (3) has reason to know about the nuisance activity; (4) knows about a fact related to the nuisance activity; or (5) is able to ascertain the existence of a nuisance by checking an official filing or recording. The lack of knowledge of, acquiescence, or participation in, or responsibility for a nuisance activity on the part of property owner shall not be a defense to any enforcement of this article.

Sec. 34-88. Change in title to chronic nuisance property.

(a) *Purchase at judicial sale upon final judgment of foreclosure.* Every purchaser of a chronic nuisance property at judicial sale upon final judgment of foreclosure shall provide the city with an action plan and implement an action plan no later than forty-five days from the date of sale.

(b) *Receivership.* Every trustee of a chronic nuisance property appointed after the entry of a chronic nuisance service order shall provide the city with an action plan and implement the action plan no later than forty-five days from the date of appointment of receiver in any state or federal action at law.

(c) *Probate.* Every personal representative of an owner of a chronic nuisance property shall provide the city with an action plan and implement an action plan no later than forty-five days from the date of appointment. If the owner of the chronic nuisance property died intestate, beneficiaries of the estate shall be required to provide the city with an action plan and implement an action plan.

(d) *Other changes in title to chronic nuisance property.* An arms-length purchaser of a chronic nuisance property that has purchased the property after entry of a chronic nuisance service order for the property shall have forty-five days from the date of closing or recording of the order, whichever occurs last, to provide the city with an action plan and implement the action plan.

Sec. 34-89. Registration of distressed vacant property.

(a) *Registration by owner.* Every owner of a chronic nuisance property that is also distressed vacant property shall register with the city.

(b) *Registration by foreclosing mortgagee.* Every foreclosing mortgagee of a chronic nuisance property that is also distressed vacant property shall register with the city.

Sec. 34-90. Construction of article.

(a) *Levy of special assessments.* This article shall not be construed to limit the city from levying special assessments and the amendments to the standard unsafe building abatement code, as adopted by the city.

(b) *Monthly reinspection assessments.* This article shall not be construed to limit the city from imposing monthly reinspection assessments.

(c) *Imposition of administrative fines.* This article shall not be construed to limit the city from imposing administrative fines.

(d) *Exemptions.* This article shall not be construed to apply to property owned by the city or any other governmental entity.

(e) *Provision of this article supplemental.* Nothing in this article shall be construed to limit the authority of the city to collect special assessments by any other method according to law.

DIVISION 2. LEVY AND COLLECTION OF NON-AD VALOREM ASSESSMENTS.

Sec. 34-91. Unpaid chronic nuisance service costs; non-ad valorem assessment.

Any chronic nuisance service costs that remain delinquent and unpaid as of June 1st of each year shall be a special assessment levied against the benefitted real property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the benefitted real property and equal in rank and dignity with a lien for ad valorem taxes.

Sec. 34-92. Initial assessment roll.

(a) *Contents of initial assessment roll.* The finance director shall, annually, prepare or direct the preparation of an initial assessment roll which shall contain the following:

- (1) A summary description of all benefitted real property with delinquent chronic nuisance service costs to be assessed, conforming to the description contained on the ad valorem tax roll;
- (2) The name of the owner of the benefitted real property as listed on the ad valorem tax roll and maintained on the property appraiser's system; and
- (3) The amount of the chronic nuisance service costs to be assessed against each parcel of benefitted real property.

(b) *Public inspection of initial assessment roll.* The initial assessment roll shall be retained by the city clerk 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 chronic nuisance service assessment for each parcel of benefited real property can be determined by use of a computer terminal available to the public.

(c) *Notice to property appraiser.* A copy of the initial assessment roll shall be provided to the property appraiser and included as a part of the notice of proposed property taxes under F.S. § 200.069, the truth-in-millage notification.

Sec. 34-93. Notice of public hearing.

(a) *Public hearing.* The city commission shall adopt a non-ad valorem assessment roll at a public hearing in accordance with F.S. § 197.3632.

(b) *Notice by mail.* The city shall notice the hearing related to the initial assessment roll by certified mail, return receipt required and first class mail. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information:

- (1) the purpose of the assessment;
- (2) the total amount to be levied against each parcel of assessed real property;
- (3) a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title;
- (4) a statement that all affected property owners have a right to appear at the hearing and to file written objections with the city commission within twenty days of the notice; and
- (5) the date, time, and place of the hearing.

The mailed notice shall conform to the requirements set forth in F.S. § 197.3632. Notice shall be mailed at least twenty calendar days prior to the hearing to each property owner at the address listed on the ad valorem tax roll. Failure of the property 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 chronic nuisance service assessment.

(c) *Notice by publication.* The city shall notice the hearing related to the initial assessment roll by publication in a newspaper generally circulated within the county. The published notice shall conform to the requirements set forth in F.S. § 197.3632 and shall contain at least the following information:

- (1) identifying the city;

- (2) a geographic depiction of the city boundaries subject to the assessment;
- (3) a brief and general description of the chronic nuisance services provided;
- (4) the proposed schedule of the assessment;
- (5) the fact that the assessment will be collected by the tax collector;
- (6) a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within twenty days of the publication of the notice; and
- (7) a statement that the initial assessment roll is available for inspection at the office of the city clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed real property at the office of the city clerk.

Sec. 34-94. Public hearing; adoption of final assessment roll.

(a) *Public hearing.* At the public hearing, the city commission shall receive the written objections and shall hear testimony from all interested persons. The city commission may adjourn the hearing from time to time. If the city commission adopts the non-ad valorem assessment roll, the city commission shall specify the amount of the assessment. Notwithstanding the notices provided for in this division, the city commission may adjust the assessment or the application of the assessment to any assessed real property based on the benefit which the city will provide or has provided to the property.

(b) *Adoption of final assessment roll.* The city commission may, at the public hearing or at any subsequent meeting of the city commission, adopt an assessment roll which shall confirm, modify, or repeal the initial assessment roll with such amendments, if any, as the city commission deems equitable.

(c) *Legislative determination of special benefit and fair apportionment.* The adoption of the final assessment roll by the city commission shall constitute a legislative determination that all assessed parcels of real property derive a special benefit from the chronic nuisance services provided by the city and a legislative determination that the assessments are fairly and reasonably apportioned to the properties.

Sec. 34-95. Lien of chronic nuisance service assessments.

Upon the adoption of the final assessment roll, all chronic nuisance service assessments shall constitute a perfected lien against the assessed real property superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes.

Sec. 34-96. Correction of errors and omissions.

(a) *Validity of assessment.* Any informality or irregularity in the proceedings in connection with the levy of a chronic nuisance service assessment shall not affect the validity of the assessment after approval by the city commission. A chronic nuisance service assessment as finally approved by the city commission shall be competent evidence that the assessment was duly levied, made and adopted, and that all other proceedings were duly taken. No act of error or omission on the part of the property appraiser, tax collector, finance director, or other employee of the city shall operate to release or discharge any obligation for payment of a chronic nuisance service assessment imposed by the city under this article.

(b) *Correction of errors by the finance director.* Prior to the delivery of the assessment roll to the tax collector in accordance with F.S. § 197.3632, the finance director shall have the authority at any time to correct any error or omission in applying the assessment to any particular parcel of assessed real property not otherwise requiring the provision of notice pursuant to F.S. § 197.3632. Any such correction shall be considered valid *ab initio* and shall not affect the enforcement of the chronic nuisance service assessment. Any such correction shall be processed by the finance director and not the property appraiser or tax collector.

Sec. 34-97. Method of collection.

Unless otherwise directed by the city commission, chronic nuisance service assessments shall be collected pursuant to the uniform method provided in F.S. § 197.3632. Any hearing or notice required by this division may be combined with any other hearing or notice required by F.S. § 197.3632 or other provision of law.

Sec. 34-98. Alternative method of collection.

(a) In lieu of using F.S. § 197.3632, the city may elect to collect a chronic nuisance service assessment by any other method authorized by law or under the alternative collection method provided by this section.

(b) The city shall have the right to foreclose and collect all delinquent chronic nuisance service assessments in the manner provided by law for the foreclosure of mortgages on real property. All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action shall be included in any judgment or decree rendered

(c) Notwithstanding the city's use of an alternative method of collection, the finance director shall have the same power and authority to correct errors and omissions as provided in this division.

SECTION 3: Specific authority is hereby granted to codify Section 2 of this Ordinance.

SECTION 4: In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution or policy of the City, the provisions of this Ordinance shall govern and control.

SECTION 5: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 6. That this Ordinance shall become effective upon passage.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 17th day of April, 2014.



Dave Eggers
Mayor

ATTEST:



Denise M. Schlegel
City Clerk

READ FIRST TIME AND PASSED:	_____ April 3, 2014 _____
ADVERTISED:	_____ April 6, 2014 _____
READ SECOND TIME AND ADOPTED:	_____ April 17, 2014 _____