

RESOLUTION NO. 119-18

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PURSUANT TO CHAPTER 100 OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, ASSESSING COSTS FOR ABATING NUISANCES UPON CERTAIN LAND(S) LOCATED WITHIN THE CITY OF DELRAY BEACH AND PROVIDING THAT A NOTICE OF LIEN SHALL ACCOMPANY THE NOTICE OF ASSESSMENT; SETTING OUT ACTUAL COSTS INCURRED BY THE CITY TO ACCOMPLISH SUCH ABATEMENT AND LEVYING THE COST OF SUCH ABATEMENT OF NUISANCES; PROVIDING FOR AN EFFECTIVE DATE AND FOR A DUE DATE AND INTEREST ON ASSESSMENTS; PROVIDING FOR THE RECORDING OF THIS RESOLUTION, AND DECLARING SAID LEVY TO BE A LIEN UPON THE SUBJECT PROPERTY FOR UNPAID ASSESSMENTS.

WHEREAS, the City Manager or his designated representative has, pursuant to Chapter 100 of the Code of Ordinances, declared the existence of a nuisance upon certain lots or parcels of land, described in the list attached hereto and made a part hereof, for violation of the provisions of Chapter 100 of the Code of Ordinances; and,

WHEREAS, pursuant to Section 100.21 and 100.22 of the Code of Ordinances of the City of Delray Beach, the City Manager or his designated representative has inspected said land(s) and has determined that a nuisance existed in accordance with the standards set forth in Chapter 100 of the Code of Ordinances, and did furnish the respective owner(s) of the land(s) described in the attached list with written notice of public nuisance pursuant to Sections 100.21 and 100.22 of the Code of Ordinances describing the nature of the nuisance(s) and sent notice that within seven (7) days from the date of said notice (forty-two (42) days in the case of violation of Section 100.04 pertaining to seawalls) they must abate said nuisance, or file a written request for a hearing to review the decision that a nuisance existed within five (5) days from the date of delivery of said notice, failing which the City of Delray Beach would proceed to correct this condition by abating such nuisance, and that the cost thereof would be levied as an assessment against said property; and,

WHEREAS, the property owner(s) named in the list attached hereto and made a part hereof did fail and neglect to abate the nuisance(s) existing upon their respective lands or to properly request a hearing pursuant to Section 100.21 and 100.22 within the time limits prescribed in said notice and Chapter 100 of the Code of Ordinances, or if the property owner(s) did request and receive a hearing, said property owner(s) failed and/or neglected to abate such nuisance(s) within the time designated at the hearing wherein a decision was rendered adverse to the property owner(s); and,

WHEREAS, the City of Delray Beach, through the City Administration or such agents or contractors hired by the City Administration was therefore required to and did enter upon the land(s) described in the list attached and made a part hereof and incurred costs in abating the subject nuisance(s) existing thereon as described in the notice; and,

WHEREAS, the City Manager of the City of Delray Beach has, pursuant to Chapter 100 of the Code of Ordinances of the City of Delray Beach, submitted to the City Commission a report of the costs incurred in abating said nuisance(s) as aforesaid, said report indicating the costs per parcel of land involved; and,

WHEREAS, the City Commission of the City of Delray Beach, pursuant to Chapter 100 of the Code of Ordinances desires to assess the cost of said nuisance(s) against said property owner(s),

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That assessments in the individual amounts as shown by the report of the City Manager of the City of Delray Beach, involving the City's cost of abating the aforesaid nuisances upon the lots or parcels of land described in said report, a copy of which is attached hereto and made a part hereof, are hereby levied against the parcel(s) of land described in said report and in the amount(s) indicated thereon. Said assessments so levied shall, if not paid within thirty (30) days after mailing of the notice described in Sec. 3, become a lien upon the respective lots and parcel(s) of land described in said report, of the same nature and to the same extent as the lien for general city taxes and shall be collectible in the same manner as mortgages and foreclosures are under state law.

Section 2. That such assessments shall be legal, valid and binding obligations upon the property against which said assessments are levied.

Section 3. That the City Clerk of the City of Delray Beach is hereby directed to immediately mail by first class mail to the owner(s) of the property, as such ownership appears upon the records of the County Tax Assessor, notice(s) that the City Commission of the City of Delray Beach at its Meeting on September 25, 2018, has levied an assessment against said property for the cost of abatement of said nuisance by the City, and that said assessment is due and payable within thirty (30) days after the mailing date of said notice of assessment, after which a lien shall be placed on said property, and interest will accrue at the rate of 8% per annum, plus reasonable attorney's fees and other costs of collecting said sums. A Notice of Lien shall be mailed, along with the Notice of Assessment and this resolution.

Section 4. That this resolution shall become effective thirty (30) days from the date of adoption and the assessment(s) contained herein shall become due and payable thirty (30) days after the mailing date of the notice of said assessment(s), after which a lien shall be placed on said property(s), and interest shall accrue at the rate of eight (8) percent per annum plus, if collection proceedings are necessary, the costs of such proceedings including a reasonable attorney's fee.

Section 5. That in the event that payment has not been received by the City Clerk within thirty (30) days after the mailing date of the notice of assessment, the City Clerk is hereby directed to record a certified copy of this resolution in the public records of Palm Beach County, Florida, and upon the date and time of recording of the certified copy of this resolution a lien shall become effective on the subject property which shall secure the cost of abatement, interest at the rate of 8%, and collection costs including a reasonable attorney's fee.

PASSED AND ADOPTED in regular session on this _____day of _____, 2018.

Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

R. Max Lohman, City Attorney