

Chapter 10.5

FIRE PREVENTION AND PROTECTION

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ARTICLE I.

IN GENERAL

Sec. 10.5-1--10.5-30. Reserved.

ARTICLE II.

FIRE RESCUE ASSESSMENT REGULATIONS*

* **Editors Note:** Ord. No. 1998-63, adopted Aug. 4, 1998, did not specifically amend the Code; hence, inclusion herein as Art. II was at the discretion of the editor. See the Code Comparative Table for a detailed analysis of inclusion.

Cross References: Fire and rescue advisory board, § 2-90.7 et seq.

DIVISION 1.

INTRODUCTION

Sec. 10.5-31. 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 10.5-48 hereof, establishing the rate at which a fire rescue 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 rescue 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 rescue 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 rescue assessment approved by a final assessment resolution pursuant to section 10.5-46 hereof or an annual rate resolution pursuant to section 10.5-48 hereof.

Board means the Board of County Commissioners of Lake 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 lot or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like for residential purposes.

Certificate of occupancy means the written certification issued by the county that a building is ready for occupancy for its intended use. For the purposes of this article, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a certificate of occupancy.

Clerk means the Clerk of the Circuit Court for Lake County, Florida, as ex-officio clerk of the board.

County means Lake County, Florida.

County manager means the chief administrative officer of the county, designated by the board to be responsible for coordinating fire rescue assessments, or such person's designee.

Final assessment resolution means the resolution described in section 10.5-46 hereof which shall confirm, modify, or repeal the initial assessment resolution and which shall be the final proceeding for the initial imposition of fire rescue assessments.

Fire rescue 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 rescue 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 rescue 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 rescue services, facilities, or programs which provide a special benefit to assessed property, and shall include, but not be limited to, the following components:

- (1) The cost of physical construction, reconstruction or completion of any required facility or improvement;
- (2) The costs incurred in any required acquisition or purchase;

- (3) The cost of all labor, materials, machinery, and equipment;
- (4) The cost of fuel, parts, supplies, maintenance, repairs, and utilities;
- (5) The cost of computer services, data processing, and communications;
- (6) The cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever;
- (7) The cost of any indemnity or surety bonds and premiums for insurance;
- (8) The cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (9) The cost of uniforms, training, travel, and per diem;
- (10) The cost of construction plans and specifications, surveys and estimates of costs;
- (11) The cost of engineering, financial, legal, and other professional services;
- (12) The costs of compliance with any contracts or agreements entered into by the county to provide fire rescue services;
- (13) All costs associated with the structure, implementation, collection, and enforcement of the fire rescue 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 rescue assessments pursuant to the Uniform Assessment Collection Act or for early payment of fire rescue assessments collected pursuant to section 10.5-62 herein;
- (14) All other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue 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;
- (15) A reasonable amount for contingency and anticipated delinquencies and uncollectible fire rescue assessments; and
- (16) 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 rescue assessed cost.

In the event the county also imposes an impact fee upon new growth or development for fire rescue related capital improvements, the fire rescue assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development that will be paid by such impact fees.

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 10.5-42 hereof which shall be the initial proceeding for the identification of the fire rescue assessed cost for which an assessment is to be made and for the imposition of a fire rescue assessment.

Maximum assessment rate means the highest rate of a fire rescue assessment established by the board in an initial or preliminary assessment resolution and confirmed by the board in the final or annual rate resolution.

Ordinance means this fire rescue assessment ordinance.

Owner shall mean 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 10.05-48 hereof initiating the annual process for updating the assessment roll and directing the reimposition of fire rescue assessments pursuant to an annual rate resolution.

Property appraiser means the Lake County Property Appraiser.

Tax collector means the Lake 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.
(Ord. No. 1998-63, § 1.01, 8-4-98)

Sec. 10.5-32. 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.

(Ord. No. 1998-63, § 1.02, 8-4-98)

Sec. 10.5-33. General findings.

It is hereby ascertained, determined, and declared that:

- (1) 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 municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of county ordinances.
- (2) The board derives its authority to impose fire rescue assessments as provided in the article from the home rule power of counties in Article VIII, section 1(f), Florida Constitution, and sections 125.01 and 125.66, Florida Statutes. More specifically, section 125.01(1)(q), Florida Statutes, provides the board's authority for the imposition of fire rescue assessments in all or a portion of the county which includes incorporated areas within a municipality through the creation of a municipal service taxing or benefit unit. The creation of a municipal service taxing or benefit unit which consists in part of some property situated within an incorporated area requires the consent of the affected municipality pursuant to section 125.01(1)(q), Florida Statutes. Supplementally and alternatively, the board has the power to impose fire rescue assessments throughout all or a part of the county, both within and outside of the incorporated areas, without creating a municipal service taxing or benefit unit. Such authority is derived from the specifically enumerated county power to levy special assessments in section 125.01(1)(r), Florida Statutes. Further, the board has the home rule power to impose fire rescue assessments both within and outside of an incorporated area where the county provides fire rescue services, facilities and programs within such incorporated area. No municipal purpose is served by a municipal article that attempts to opt out or negate the effect of such fire rescue assessment within the municipality where the property subject to such fire rescue assessments receives a special benefit from the county's provision of such fire rescue services, facilities and programs.
- (3) The principal purposes of this article are to authorize and prescribe supplemental and alternative procedures for the imposition of fire rescue assessments and the funding of fire rescue services, facilities, or programs providing a special benefit to property within the county.
- (4) This article authorizes the board to impose fire rescue assessments on benefitted property within the county. Pursuant to this article, the board may impose fire rescue assessments via the municipal service taxing unit heretofore created in Ordinance No. 1990-24 and Ordinance No. 1991-18, as amended by Ordinance No. 1998-64. Such municipal service taxing or benefit unit is designated as the "Lake County Municipal Service Taxing Unit for Fire Protection." This article also authorizes the imposition of fire rescue assessments through a municipal service benefit unit hereafter created in an initial or preliminary rate resolution adopted pursuant to this article. Additionally and alternatively, this article authorizes the imposition of a fire rescue assessment throughout a geographic area designated by the board in an initial or preliminary rate resolution, without requiring the creation of a new, or the use of an existing, municipal service taxing or benefit unit. This article authorizes the board to designate a geographic area to include all or a portion of the unincorporated area, and either (1) to include incorporated areas or (2) to exclude

all incorporated areas. Further, this article allows the board to designate a geographic area to be coterminous with a municipal service taxing or benefit unit or to ignore the boundaries of a municipal service taxing or benefit unit altogether.

- (5) The annual fire rescue 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.
- (6) The fire rescue 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 Uniform Assessment Collection Act are ministerial.

(Ord. No. 1998-63, § 1.03, 8-4-98)

Sec. 10.5-34. Legislative determinations of special benefit.

It is hereby ascertained and declared that the fire rescue services, facilities, and programs provide a special benefit to property that is improved by the existence or construction of a building based upon the following legislative determinations:

- (1) Fire rescue services possess a logical relationship to the use and enjoyment of improved property by: (1) protecting the value of the improvements and structures through the provision of available fire rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of improvements and structures within improved parcels; (3) lowering the cost of fire insurance by the presence of a professional and comprehensive fire rescue program within the county; and (4) containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.
- (2) The combined fire control and first response emergency medical services of the county under its existing consolidated fire rescue program enhances and strengthens the relationship of such services to the use and enjoyment of buildings within improved parcels of property within the areas served by the county.
- (3) Within the areas served by the county, the combined fire control and first response emergency medical services of the county under its existing consolidated fire rescue program enhance the value of business and commercial property that is improved by the existence or construction of a building which enhanced value can be anticipated to be reflected in the rental charge or value of such business or commercial property.

(Ord. No. 1998-63, § 1.04, 8-4-98)

Secs. 10.5-35--10.5-40. Reserved.

DIVISION 2.

ANNUAL FIRE RESCUE ASSESSMENTS

Sec. 10.5-41. General authority.

(a) The board is hereby authorized to impose an annual fire rescue assessment to fund all or any portion of the fire rescue 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 rescue services, facilities, or programs. All fire rescue assessments shall be imposed in conformity with the procedures set forth in this Division 2.

(b) The amount of the fire rescue 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 rescue assessed cost among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds.

(c) Nothing contained in this article shall be construed to require the imposition of fire rescue assessments against government property.
(Ord. No. 1998-63, § 2.01, 8-4-98)

Sec. 10.5-42. Initial proceedings.

(a) The initial proceeding for the imposition of a fire rescue assessment shall be the adoption of an initial assessment resolution by the board, (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided, (2) determining the fire rescue assessed cost to be assessed, (3) describing the method of apportioning the fire rescue assessed cost and the computation of the fire rescue 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 manager to (a) prepare the initial assessment roll, as required by section 10.5-43 hereof, (b) publish the notice required by section 10.5-44 hereof, and (c) mail the notice required by section 10.5-45 hereof using information then available from the tax roll.

(b) The initial assessment resolution shall also sufficiently identify property that may be subject to the imposition of fire rescue assessments by designating a geographic area within the county where the board provides fire rescue services, facilities and programs as follows:

- (1) Such board designated geographic area may consist of all or a portion of the unincorporated area, all or a portion of the incorporated area, or any combination of the foregoing. Such board designated geographic area may be conterminous with the Lake County Municipal Service Taxing Unit for fire protection, created pursuant to Ordinance No. 1990-24 and Ordinance No. 1991-18, as amended by Ordinance No. 1998-64. The board may designate such geographic area by creating a new municipal service taxing or benefit unit, which contains a description of the property to be included.
- (2) Alternatively, the board shall identify such property by providing a summary description of the parcels, conforming to the description on the tax roll, located within the county that receive a special benefit from the provision of fire rescue services, facilities or program.

(Ord. No. 1998-63, § 2.02, 8-4-98)

Sec. 10.5-43. Initial assessment roll.

(a) The county manager 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 rescue assessment to be imposed against each such parcel of assessed property.

(b) The initial assessment roll shall be retained by the county manager 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 rescue assessment for each parcel of property can be determined by use of a computer terminal available to the public.

(Ord. No. 1998-63, § 2.03, 8-4-98)

Sec. 10.5-44. Notice by publication.

Upon completion of the initial assessment roll, the county manager 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 twenty (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. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (a) a geographic depiction of the property subject to the fire rescue assessment; (b) a brief and general description of the fire rescue services, facilities, or programs to be provided; (c) the rate of assessment including a maximum assessment rate in the event one was adopted by the initial assessment resolution; (d) the procedure for objecting provided in section 10.5-46 hereof; (e) the method by which the fire rescue assessment will be collected; and (f) a statement that the initial assessment roll is available for inspection at the office of the county manager and all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the county manager.

(Ord. No. 1998-63, § 2.04, 8-4-98)

Sec. 10.5-45. Notice by mail.

In addition to the published notice required by section 10.5-44, the county manager shall provide notice, or direct the provision of notice, of the proposed fire rescue assessment by first class mail to the owner of each parcel of property (except government property) subject to the fire rescue assessment. Such notice shall include (a) the purpose of the fire rescue assessment; (b) the rate of assessment to be levied against each parcel of property including a maximum assessment rate in the event one was adopted by the initial assessment

resolution; (c) the unit of measurement applied to determine the fire rescue assessment; (d) the number of such units contained in each parcel of property; (e) the total revenue to be collected by the county from the fire rescue assessment; (f) a statement that failure to pay the fire rescue assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (g) a statement that all affected owners have a right to appear at the hearing and to file written objections with the board within twenty (20) days of the notice; and (h) the date, time, and place of the hearing. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least twenty (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 manager may provide proof of such notice by affidavit. 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 rescue assessment imposed by the board pursuant to this article.

(Ord. No. 1998-63, § 2.05, 8-4-98)

Sec. 10.5-46. Adoption of final assessment resolution.

At the day and time named in such notice, 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 (a) confirm, modify, or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the board; (b) establish the rate of assessment to be imposed in the upcoming fiscal year; (c) establish a maximum assessment rate that may be imposed in the event such rate was included in the initial assessment resolution; (d) approve the initial assessment roll, with such amendments as it deems just and right; and (e) determine the method of collection. 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 rescue services, facilities, or programs to be provided or constructed and a legislative determination that the fire rescue assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the final assessment resolution shall be filed with the county manager 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 rescue assessments are imposed or reimposed hereunder.

(Ord. No. 1998-63, § 2.06, 8-4-98)

Sec. 10.5-47. Effect of final assessment resolution.

The fire rescue 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 rescue assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of the board action on the final assessment resolution. 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 10.5-62 hereof is used to collect the fire rescue assessments, such other official as the board by resolution shall designate.

(Ord. No. 1998-63, § 2.07, 8-4-98)

Sec. 10.5-48. Adoption of annual rate resolution.

(a) The board shall adopt an annual rate resolution during its budget adoption process for each fiscal year following the initial fiscal year for which a fire rescue assessment is imposed hereunder.

(b) The initial proceedings for the adoption of an annual rate resolution shall be the adoption of a preliminary rate resolution by the board (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided; (2) determining the fire rescue 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 manager 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.

(c) The annual rate resolution 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.

(d) Nothing herein shall preclude the board from providing annual notification to all owners of assessed property in the manner provided in either or both sections 10.5-44 or 10.5-45 hereof.

(e) The board may establish or increase a maximum assessment rate assessment in an initial or preliminary rate resolution and confirm such maximum assessment rate in the event notice of such maximum rate assessment has been included in the notices required by section 10.5-44 and 10.5-45 hereof.

(f) In the event (1) the proposed fire rescue 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 10.5-44 and 10.5-45 hereof, (2) the purpose for which the fire rescue assessment is imposed or the use of the revenue from the fire rescue assessment is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 10.5-44 and 10.5-45 hereof, (3) assessed property is reclassified or the method of apportionment is revised or altered resulting in an increased fire rescue assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 10.5-44 and 10.5-45 hereof, 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 10.5-44 and 10.5-45 hereof 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 rescue assessment imposed by the board pursuant to this article.

(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 fire rescue assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty (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 rescue assessment not challenged within the required twenty-day period for those fire rescue 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.

(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 10.5-62 hereof is used to collect the fire rescue assessments, such other official as the board by resolution shall designate. If the fire rescue assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the assessment roll.
(Ord. No. 1998-63, § 2.08, 8-4-98)

Sec. 10.5-49. Lien of fire rescue assessments.

Upon the adoption of the assessment roll, all fire rescue 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 rescue assessment shall be deemed perfected upon adoption by the board of the final assessment resolution or the annual rate resolution, whichever is applicable. The lien for a fire rescue 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 rescue assessment collected under the alternative method of collection provided in section 10.5-62 shall be deemed perfected upon adoption by the board of the final assessment resolution or the annual rate resolution, whichever is applicable, and shall attach to the property on such date of adoption.

(Ord. No. 1998-63, § 2.09, 8-4-98)

Sec. 10.5-50. Revisions to fire rescue assessments.

If any fire rescue assessment made under the provisions of this article 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 rescue 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 rescue assessment against any property benefitted by the fire rescue assessed costs, following as nearly as may be practicable, the provisions of this article and in case such

second fire rescue assessment is annulled, vacated, or set aside, the board may obtain and impose other fire rescue assessments until a valid fire rescue assessment is imposed.
(Ord. No. 1998-63, § 2.10, 8-4-98)

Sec. 10.5-51. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any fire rescue assessment under the provisions of this article shall not affect the validity of the same after the approval thereof, and any fire rescue assessment as finally approved shall be competent and sufficient evidence that such fire rescue assessment was duly levied, that the fire rescue assessment was duly made and adopted, and that all other proceedings adequate to such fire rescue 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.
(Ord. No. 1998-63, § 2.11, 8-4-98)

Sec. 10.5-52. Correction of errors and omissions.

(a) No act of error or omission on the part of the property appraiser, tax collector, county manager, board, or their deputies or employees, shall operate to release or discharge any obligation for payment of a fire rescue assessment imposed by the board under the provision of this article.

(b) When it shall appear that any fire rescue assessment should have been imposed under this article against a parcel of property specially benefitted by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the assessment roll 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 parcel in the manner and form provided in section 10.5-45, impose the applicable fire rescue assessment for the fiscal year in which such error is discovered, in addition to the applicable fire rescue assessment due for the prior two (2) fiscal years. Such fire rescue 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 hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(c) Prior to the delivery of the assessment roll to the tax collector in accordance with the Uniform Assessment Collection Act, the county manager 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 rescue assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the fire rescue 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 rescue 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 manager and not the property appraiser or tax collector.

(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 manager.
(Ord. No. 1998-63, § 2.12, 8-4-98)

Sec. 10.5-53. Interim assessments.

For all tax parcels for which a building permit is issued on or after January 1, 1999, an interim fire rescue assessment may be imposed against all property for which a certificate of occupancy (or building permit as determined by the board) is issued. The amount of the interim fire rescue 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 in which the certificate of occupancy (or building permit as determined by the board) is issued. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim fire rescue assessment shall also include an estimate of the subsequent fiscal year's fire rescue assessment. In the event the board adopts and authorizes the imposition of an interim fire rescue assessment by resolution, no certificate of occupancy (or building permit as determined by the board) shall be issued until full payment of the interim fire rescue assessment is received by the county. 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 rescue assessment, shall not relieve the owner of such property of the obligation of full payment. For the purpose of this provision, such interim fire rescue 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).
(Ord. No. 1998-63, § 2.13, 8-4-98)

Sec. 10.5-54. Inclusion of municipal areas.

(a) The areas provided fire rescue services, facilities, and programs by the county and subject to the imposition of fire rescue 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. The City of Minneola, the Town of Astatula, the Town of Howey-In-The-Hills, and the Town of Lady Lake shall not be required to provide additional request or consent by ordinance to continue to be included within the areas provided fire rescue services by the county.

(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 rescue assessments are levied by the county within an incorporated area.

(Ord. No. 1998-63, § 2.14, 8-4-98)

Secs. 10.5-55--10.5-60. Reserved.

DIVISION 3.

COLLECTION AND USE OF FIRE RESCUE ASSESSMENTS

Sec. 10.5-61. Method of collection.

(a) Unless otherwise directed by the board, the fire rescue 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 division may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(b) The amount of a fire rescue 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 rescue assessment upon certification of a non-ad valorem roll to the tax collector by the county.

(Ord. No. 1998-63, § 3.01, 8-4-98)

Sec. 10.5-62. Alternative method of collection.

In lieu of utilizing the Uniform Assessment Collection Act, the board may elect to collect the fire rescue assessments by any other method which is authorized by law or under the alternative collection method provided by this section:

- (1) the board shall provide fire rescue 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 rescue assessment, (2) a description of the unit of measurement used to determine the amount of the fire rescue assessment, (3) the number of units contained within the parcel, (4) the total amount of the fire rescue 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 rescue assessment is due, and (7) a statement that the fire rescue 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.
- (2) A general notice of the lien resulting from imposition of the fire rescue 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.

- (3) The board shall have the right to foreclose and collect all delinquent fire rescue 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 rescue assessment shall become delinquent if it is not paid within thirty (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 rescue assessment within sixty (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 rescue 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 rescue 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.
- (4) 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 rescue assessments against any or all property assessed in accordance with the provisions hereof. 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 rescue assessments and any other costs incurred by the board as a result of such delinquent fire rescue assessments and the same shall be collectible as a part of or in addition to, the costs of the action.
- (5) In lieu of foreclosure, any delinquent fire rescue 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 rescue assessment is supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.
- (6) Notwithstanding the board's use of an alternative method of collection, the county manager shall have the same power and authority to correct errors and omissions as provided to her or other county officials in section 10.5-52 hereof.
- (7) Any board action required in the collection of fire rescue assessments may be by resolution.
(Ord. No. 1998-63, § 3.02, 8-4-98)

Sec. 10.5-63. Government property.

- (a) In the event fire rescue assessments are imposed against government property, the board shall provide fire rescue 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 rescue assessment, (2) a description of the unit of measurement used to determine the amount of the fire rescue assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's fire rescue assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the fire rescue assessment is due.

(b) Fire rescue assessments imposed against government property shall be due on the same date as all other fire rescue assessments and, if applicable, shall be subject to the same discounts for early payment.

(c) A fire rescue assessment shall become delinquent if it is not paid within thirty (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 rescue assessment within sixty (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.

(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 rescue assessments and any other costs incurred by the board as a result of such delinquent fire rescue assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) As an alternative to the foregoing, a fire rescue 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.
(Ord. No. 1998-63, § 3.03, 8-4-98)

Secs. 10.5-64--10.5-70. Reserved.

DIVISION 4.

GENERAL PROVISIONS

Sec. 10.5-71. Applicability.

(a) This article and the board's authority to impose assessments pursuant hereto shall be applicable throughout the unincorporated areas 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 rescue services, facilities, and programs by the county.

(b) Notwithstanding the provisions of paragraph (a) of this section, the request and consent of the governing body of the affected municipality shall not be required for the imposition of a fire rescue assessment within municipal areas if the board shall determine prior to or at the time of the adoption of the final assessment resolution that: (1) the fire rescue services, facilities, or programs identified in the initial assessment resolution

is of a subject matter preempted to the county by law or the Florida Constitution; or (2) the proposed fire rescue assessment proceeds provides, in whole or part, county fire rescue services, facilities, or programs for which the residents or property within such municipal areas receive a special benefit.

(Ord. No. 1998-63, § 4.01, 8-4-98)

Sec. 10.5-72. Alternative method.

(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.

(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.

(Ord. No. 1998-63, § 4.02, 8-4-98)

Sec. 10.5-73. Severability.

The provisions of this article 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 article shall not be affected thereby.

(Ord. No. 1998-63, § 4.03, 8-4-98)

Sec. 10.5-74. Reserved.

ARTICLE III.

OPEN BURNING REGULATIONS

Sec. 10.5-75. Open burning prohibited.

(a) A ban on backyard burning of yard debris, burning of lands for any reason and burning of unauthorized piles of debris not approved by the Florida Division of Forestry may be initiated by the county manager or designee upon a finding that the following conditions have been met:

- (1) The Keetch-Byram Drought Index (KBDI) for Lake County has a rating of five hundred (500) or more as provided by the Florida Division of Forestry; and
 - (2) The KBDI rating of five hundred (500) or more is maintained for a period of at least three (3) weeks as provided by the Florida Division of Forestry.
- (b) The ban on open burning shall stay in effect for so long as both conditions under subsection (a)

are satisfied, or may be dissolved sooner by the county manager or designee upon a finding that the ban is no longer in the interest of the public health, safety and welfare.

(c) Open burning is defined as the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

(Ord. No. 2002-75, § 2, 9-17-02)

Sec. 10.5-76. Penalties.

Any person responsible for unlawful open burning shall bear any applicable costs involved in extinguishing the fires, with a minimum cost of one hundred fifty dollars (\$150.00) per incident. Costs shall include but not be limited to personnel, equipment, travel expenses, lodging and/or food expenses of firefighting personnel. The board of county commissioners shall be entitled to institute legal action against any responsible person failing to pay such costs within thirty (30) days after demand.

(Ord. No. 2002-75, § 2, 9-17-02)

Sec. 10.5-77. Exemptions.

Any person holding a valid open burning permit issued by the Florida Division of Forestry pursuant to F.S. Ch. 590, shall be exempt from the provisions of this section and shall be permitted to continue open burning in accordance with the terms of their state permit.

(Ord. No. 2002-75, § 2, 9-17-02)