

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINELLAS PARK, FLORIDA, AMENDING CHAPTER 10 (WATER, RECLAIMED WATER, SEWER AND OTHER UTILITIES) OF THE CODE OF ORDINANCES OF THE CITY OF PINELLAS PARK, FLORIDA BY AMENDING SECTION 10-133 "STORMWATER MANAGEMENT UTILITY SYSTEM"; PROVIDING FOR APPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, THE CITY COUNCIL OF THE CITY OF PINELLAS PARK DESIRES FOR THE CODE OF ORDINANCES TO FUNCTION EFFECTIVELY AND EQUITABLY THROUGHOUT THE CITY; AND

WHEREAS, THE CITY COUNCIL OF THE CITY OF PINELLAS PARK HAS DETERMINED WHERE THE CODE OF ORDINANCES NEEDS CLARIFICATION AND REVISION;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF PINELLAS PARK, PINELLAS COUNTY, FLORIDA, AS FOLLOWS:

SECTION ONE: That Section 10-133 - STORMWATER MANAGEMENT UTILITY SYSTEM, of Chapter 10 - WATER, RECLAIMED WATER, SEWERS AND OTHER UTILITIES, of the Code of Ordinances of the City of Pinellas Park, Florida, is hereby amended to read as follows:

Sec. 10-133. - Stormwater management utility system.

- (A) *Short title.* This section shall be entitled "Stormwater Utility Ordinance of Pinellas Park."
- (B) *Purpose and intent.* It is necessary to provide stormwater facilities and service throughout the City in order that the health, safety and welfare of the City may be protected. It is

the intent and purpose of this Section to provide authority to levy fees against owners whose property impacts the City of Pinellas Park Stormwater Management Utility System or services, or who enjoys benefits there from, within the City of Pinellas Park Stormwater Management Utility System and to provide to the City a rational means for establishment of such fees, and to designate the proceeds for the construction and maintenance of improvements and facilities and the administration and provision of stormwater services within the City of Pinellas Park Stormwater Management Utility System.

- (C) *Definitions and rules of construction.* For the purpose of this Section, the definitions contained in this Section shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary; the word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

City of Pinellas Park Stormwater Management Utility System: Means any part of the Stormwater System including but not limited to culverts, ditches, ponds, lakes, swales, and catch basin inlets or any other structure that assist in the conveyance of stormwater directly or indirectly, located within the City limits of the City of Pinellas Park, Florida.

~~*Non-Residential Property:* Means any developed lot or parcel of land, not exclusively residential, which is designated or developed for a non-residential use, or which has been converted to maintain a non-residential use.~~

Developed Property: Means property which has been altered from its natural state by clearing, excavation, change of grade or landscaping or by the addition of any improvements such as a building, structure, or impervious surface. For new construction, a property shall be considered developed for purposes of this Section upon issuance of a certificate of occupancy or upon completion of construction or final inspection if no such certificate is issued, or where construction is at least fifty (50) percent complete and construction is halted for a period of three (3) months or longer.

~~*Multi-Family Residential Property:* Means any lot or parcel of land designated exclusively for residential purposes, on which is constructed a multi-family dwelling, as such is defined in Section 18-1502.~~

Exempt Property: Means public rights-of-way, public streets, bona-fide agricultural operations as defined by Florida Statutes, railroad tracks, public alleys and public sidewalks, public parks, vacant parcels that are completely pervious, conservation areas, real property owned by the county school board or a parcel containing under 400 square feet of impervious area.

Non-Single Family Residential Property: Means any developed lot or parcel of land that is not Single-Family Residential Property, including but not limited to properties with institutional or commercial development, warehouses, multi-family, shopping centers, and/or office buildings. The primary land use codes used by the Pinellas County Property Appraiser for this customer class are 0000, 0030, 0033, 0430, 0060, 0061, 0062, 0090, 0310, 0311, 0410, 0442, 0443, 0550, 0551, 0752, 0820, 0821, 0822, 1000- 7953, however codes may be added or deleted as deemed appropriate by the Public Works Administrator.

Public Works Administrator: Means the Administrator of the Department of Public Works of the City of Pinellas Park or his designee.

Single-Family Residential Property: Means any developed lot or parcel of land in which a single owner residential development, including but not limited to single-family homes, individually owned manufactured homes, townhouses and villas, is present designated exclusively for residential purposes, on which is constructed a single-family dwelling, as such is defined in Section 18-1502. The primary land use codes used by the Pinellas County Property Appraiser for this customer class are 5001, 0430, 0431, 0261, 0262, 0260, 0133, 0810, 0110, however codes may be added or deleted as deemed appropriate by the Public Works Administrator.

- (D) *Fee established.* A stormwater management fee is hereby established and imposed on all developed lots or parcels of land within the City limits of the City of Pinellas Park, Florida. Such fee shall be calculated to generate a portion of funds to plan, administrate, construct, operate, and maintain the City of Pinellas Park Stormwater Management Utility System for which the utility fee is established.
- (E) *Findings as to fees; use of funds.* The stormwater management utility fee authorized by this Section is found to be reasonable and necessary to safeguard the public health, safety and welfare by providing funding for the operation, maintenance, and administration and capital improvements for existing and future stormwater management facilities within the City of Pinellas Park Stormwater Management Utility System. All proceeds of this fee are deemed to be in payment for use of or benefit derived

within the City of Pinellas Park Stormwater Management Utility System. All stormwater management utility fees collected by the City shall be used for the sole and only purpose of paying the cost of construction, operation, administration, debt service and maintenance of the stormwater management utility facilities within the City of Pinellas Park Stormwater Management Utility System. The fees collected shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the cost of accounting, management, administration and government thereof. Other than provided herein, the fees and charges shall be used for stormwater management purposes to include but be limited to paying the cost of the operation, repair, maintenance, improvement, rehabilitation, replacement, design, engineering, right-of-way acquisition, and construction of public stormwater management utility facilities, and related costs.

- (F) *Stormwater management utility ~~rate; monthly fee~~.* The rate to be charged per unit shall be a factor which is set forth by a separate Resolution, and such factor shall be calculated to generate a portion of funds to plan, administrate, construct, operate, and maintain the Stormwater Management Utility System.
- (G) *Fee for ~~Single-Family Residential Property~~.* The fee for single-family properties shall be the fee for each single-family residential unit that directly or indirectly discharges into the City of Pinellas Park Stormwater Management Utility System. ~~The fee for single-family residential units that do not directly or indirectly discharge into the City of Pinellas Park Stormwater Management Utility System shall be set at fifty (50) percent of the fee for a single residential unit. The fee schedule will be set forth in a separate resolution.~~
- ~~(H) *Fee for multi-family residential property.* The fee for multi-family properties shall be set at fifty (50) percent of the fee for a single-family residential property. The fee schedule will be set forth in a separate resolution.~~
- (H~~I~~) *Fee for ~~Non Single-Family Residential Property~~.* The fee for non-residential properties as defined herein shall be a fee for each non-residential property. The fee schedule will be set forth in a separate resolution.
- (I~~J~~) *Billing and payment; penalties for nonpayment.* Bills or statements for the stormwater management utility fee shall be rendered ~~monthly~~ annually as a non ad valorem assessment on each parcel's tax bill and shall be payable at the same time and in the same manner and subject to the same penalties for nonpayment as ~~are set forth for utility billing under Chapter 10 of this Code~~ all other annual tax liabilities.

~~(K) Inclusion in utility bill. For properties normally receiving a monthly utility bill for any other utility services which the City provides, the stormwater management utility fee shall be included in the monthly utility bill rendered to the established customer. At the discretion of the City Finance Administrator, fee waivers for short term, inactive utility accounts accruing fees of Five Dollars (\$5.00) or less per month may be made for purposes of administrative convenience.~~

~~(L) Bill for properties not served with utilities. For properties not receiving monthly bills for any other utility services which the City provides, the bill or statement for the stormwater management utility fee shall be sent to the owner of the property as determined from the Tax Rolls by the City. The Finance Department may render annual or semiannual billing on such properties if determined to be in the best interest of the City.~~

(JM) Owner responsible for stormwater management utility fee. To the extent allowed by applicable State law, the owner(s) of property to which a stormwater management utility fee has been applied under this Section shall be held liable for such stormwater management utility fees hereto, irrespective of whether or not such owner(s) physically occupied such property.

(KN) Request for adjustment; procedure. All requests for adjustment of the stormwater management utility fee shall be submitted to the Public Works Administrator. The Administrator shall review each request as follows:

- (1) All requests shall be in writing and shall set forth in detail the grounds upon which relief is sought.
- (2) Adjustment requests made during the first calendar year that the fee is imposed shall be reviewed by the Public Works Administrator within ninety (90) days from the date of submission. Adjustments resulting from such requests shall be retroactive to the effective date of the fees imposed by this Section.
- (3) All adjustment requests after the first calendar year that the fee is imposed shall be reviewed by the Public Works Administrator within four (4) months from the date of submission. Adjustments resulting from such requests shall be retroactive to the date of submission.
- (4) The owner or owner's designee requesting the adjustment may be required to, at his own expense, provide supplemental information to the Public Works Administrator, including, but not limited to survey data and engineering reports approved by either a registered professional land surveyor (R.P.L.S.) or professional engineer (P.E.). Failure to

provide such information may result in denial of the adjustment request.

- (5) The Public Works Administrator shall provide the person requesting the adjustment with a written determination of the request within the time limits provided herein. Any adjustments shall be prorated monthly.

(LO) Appeals. All determinations of the Public Works Administrator made pursuant to subsection (N) of this Section may be appealed to an appeals board consisting of the City Manager, the Community Development Administrator, and the Finance Administrator, or their designee(s). Appeals must be filed with the Public Works Administrator within thirty (30) days of the Administrator's written determination. Appeals shall be heard within thirty (30) days of filing. In evaluating appeals, the appeals board shall be bound by the method of settling rates as set forth in this Section. The decision of the board shall be bound by the method of setting rates as set forth in this Section. The decision of the board shall be final.

(MP) Flood liability. Floods from stormwater may occur which exceed the capacity of the stormwater management utility systems constructed, operated or maintained by fund as made available under this Section. This Section shall not be construed or interpreted to mean that property subject to the fees and charges established herein will always, or at any time, be free from stormwater flooding or flood damage, or that stormwater management utility systems capable of handling all stormwater events can be cost-effectively constructed, operated or maintained. Further, this Section shall not create any liability on the part of or cause of action against the City or any official employee of the City from the flood damage that may result from such stormwater events or the run-off thereof. This Section does not purport to reduce the need or the necessity for obtaining adequate flood insurance by individual property owners.

SECTION TWO: It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Pinellas Park, Florida, and the publisher of the Code may renumber, reclassify or otherwise insert this Ordinance in an appropriate place to accomplish such intention.

SECTION THREE: That all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION FOUR: If a Court of competent jurisdiction at any time finds any provision of this Ordinance to be unlawful, illegal, or unenforceable, the offending provision shall be deemed severable and removed from the remaining provisions of this Ordinance which shall remain in full force and intact.

SECTION FIVE: That this Ordinance shall be in full force and effect immediately upon the effective date of Resolution 21-12.

PUBLISHED THE _____ & _____ DAY OF _____, 2021.

FIRST READING THE _____ DAY OF _____, 2021.

PUBLIC HEARING THE _____ DAY OF _____, 2021.

ADOPTED THIS _____ DAY OF _____, 2021.

AYES:

NAYES:

ABSENT:

ABSTAIN:

APPROVED THIS _____ DAY OF _____, 2021.

Sandra L. Bradbury
MAYOR

ATTEST:

Diane M. Corna, MMC
CITY CLERK

To: Aaron Petersen, Project Manager
City of Pinellas Park

From: Kelly Westover, Managing Consultant
Stantec

File: Stormwater Assessment Methodology
Language for Section. 10-133
Stormwater Utility Ordinance Update

Date: May 24, 2021

BACKGROUND

Stantec Consulting Inc. performed a Stormwater Utility Rate Study for the City of Pinellas Park, Florida and issued a Final Report on July 21, 2020 containing the analysis, results and recommendations of said Study. This memorandum outlines the proposed methodology to assess parcels within the City limits for the benefits such parcels receive from the City's Stormwater Utility activities. The City Attorney may consider this methodology in the process of updating the City's existing Stormwater Utility Ordinance included in Section 10-133 of the City's Code of Ordinances.

METHODOLOGY

The primary driver of stormwater runoff from parcels is impervious area in the form of development on a parcel that alters the stormwater runoff from the parcels natural state. The City of Pinellas Park has designed, constructed and manages a stormwater system to receive the runoff from parcels in the City and transport that runoff to receiving waterbodies. Given the strong link between impervious area on a parcel and the resulting potential stormwater runoff generation, the amount of measured impervious area on a parcel is the best measure of that parcel's benefit received from the City's municipal stormwater system.

The stormwater fee methodology being proposed for the City includes a tiered approach for single-family residential parcels and a measured approach for all other parcels considered non-single-family residential.

Given the distribution of impervious area located on single-family residential parcels, Stantec recommends implementing a tiered fee structure for this customer class. Under this approach, each single-family residential property will fall into a specific tier based on their measured impervious area, with the stormwater rates for each tier being proportionate to the median impervious area in each tier. This approach will provide simplicity while recognizing the differing amounts of impervious area among the residential properties in the City. The tiers are constructed to capture parcels with smaller impervious footprints, average impervious footprints and those larger than average. Based on the database of impervious area, a four-tier structure has been created that fully captures the distribution of the residential properties within the City. The four tier ranges with the minimum and maximum square feet of impervious area are presented in the table below.

Tier Level	Min Sq. Ft.	Max Sq. Ft.
Tier 1	400	1,600
Tier 2	1,601	3,200
Tier 3	3,201	4,600
Tier 4	4,601	

Based on the distribution of impervious area for single-family parcels, an equivalent residential unit (ERU) has been calculated at 2,000 square feet. This unit reflects the median impervious area on the Tier 2 single-family residential parcel. Defining an ERU allows for non-single-family parcels that are measured on actual impervious area to be billed in terms of a certain number of ERUs, based on the parcel's total impervious area.

For non-single-family residential, a parcel specific fee structure is recommended based on the actual measured impervious area on each non-single-family residential parcel expressed in terms of ERUs. The total square feet of impervious area are divided by 2,000 square feet is used to determine the number of ERUs for each non-single-family residential parcel. This number of ERUs for each parcel is then multiplied by the stormwater rate per ERU to determine the stormwater assessment for each measured parcel.

DEFINITIONS

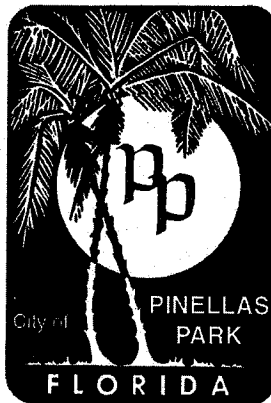
The definitions in the City's existing Ordinance may need to be updated to be consistent with the classifications in the Stormwater Utility Rate Study as follows:

- Single-Family Residential - Properties with single owner residential development including single-family homes, individually owned manufactured homes, townhouses, and villas.
- Non-Single-Family Residential – Non-single family residential parcels, and properties with institutional or commercial development warehouses, apartments or condos, shopping centers, and office buildings.
- Exempt - The exempt customer class includes those parcels that should be exempt from the stormwater utility fee. The basis for the categories of parcels included in the exempt customer class include the following:
 - Public roads and rights-of-way: These properties serve as key components of the stormwater system.
 - Vacant parcels: The impervious area approach would exclude vacant/undeveloped properties.
 - Railroad Tracks: These are like the right-of-way land use and often have onsite stormwater infrastructure that benefit a stormwater system.
 - Public Schools: Court rulings to date have created a sovereign immunity precedent.

- Bona-fide agricultural operations: Florida Statutes Section 163.3162 (3) (c) exempts these properties.
- Less than 400 square feet of impervious: These properties are exempt to recognize the practical accuracy limitations of capturing all impervious area in the City.

City of
PINELLAS PARK

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June 4, 2021

Mr. Aaron Petersen
Construction Services Director
City of Pinellas Park
P. O. Box 1100
Pinellas Park, Florida 33780-1100

RE: City Document #21-163 (Revised)
Stormwater Management Utility System Ordinance

Dear Mr. Petersen:

We have worked with both you and the City's Consultants to revise and update the Stormwater Management Utility System Ordinance. As we discussed, the proposed Ordinance will not take affect unless and until Resolution 21-12 (the Resolution setting forth the new proposed Stormwater Fee Structure) is approved by City Council. Attached is the final proposed Ordinance. We would approve of the Ordinance as to form and correctness.

Very truly yours,

Lauren C. Rubenstein
Assistant City Attorney

cc: Doug Lewis, City Manager
Diane M. Corna, MMC, City Clerk
Bart Diebold, Assistant City Manager
Lisa Hendrickson, Assistant City Manager

LCR/cb

21-163.06042021.LAP.Revised.Stormwater Mgmt Utility System Ord.wpd



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