

ORDINANCE NO. 20-2017

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 21, ARTICLE V "STORMWATER MANAGEMENT UTILITY", TO TRANSITION THE COLLECTION OF AN ANNUAL STORMWATER UTILITY ASSESSMENT TO A NON AD VALOREM ASSESSMENT ON THE PROPERTY TAX ROLL; SPECIFICALLY BY AMENDING SECTION 21-266 "DEFINITIONS", SECTION 21-272 "SERVICE CHARGES", SECTION 21-273 "SERVICE RATE CHARGES", SECTION 21-275 "FEE COLLECTION", AND SECTION 21-276 "EXEMPTIONS OR CREDITS APPLICABLE TO SERVICE CHARGES"; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of Titusville is responsible for the conservation, management, protection, control, use and enhancement of stormwater within its corporate jurisdiction, and for the acquisition, management, maintenance, extension, and improvement of the stormwater systems in the City; and

WHEREAS, the City is authorized by Chapters 166 and 403.0893, Florida Statutes, and the State of Florida Constitution to acquire, maintain, construct, reconstruct, improve, and extend stormwater services areas, to issue revenue bonds and other debts, and to adopt service charges, fees, and other forms of financing for stormwater management; and,

WHEREAS, Section 403.0893(3), Florida Statutes, further provides the fees to be assessed within stormwater management system benefit areas shall be calculated to generate sufficient funds to plan, construct, operate, and maintain stormwater management systems, and authorizes the City of Titusville to utilize the non-ad valorem levy, collection and enforcement methods provided for in Chapter 197, Florida Statutes; and,

WHEREAS, the uniform statutory collection methodology is provided in Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code, with its enforcement provisions, including the use of tax certificates and tax deeds for enforcing against any delinquencies, and the uniform methodology is more fair to the delinquent property owner than traditional lien foreclosure methodology; and,

WHEREAS, these stormwater assessments are liens under Section 197.3632, Florida Statutes, and applicable case law, if each results in a special benefit peculiar to the parcels of property involved (over and above general community benefit), as a result of a logical connection to the property involved, from the system, facility and service provided if such benefits are apportioned to the property fairly and reasonably; and,

WHEREAS, the City of Titusville adopted its Resolution No. 19-2016 for its Stormwater Assessments on August 23, 2016, whereby the City elected to use the uniform method of collecting all non-ad valorem assessments levied by the City for real property located within the City of Titusville, Brevard County, Florida, beginning in tax year 2017; and,

WHEREAS, on June 13, 2017, the City of Titusville entered into Agreement for the Uniform Collection of non-ad valorem tax assessments with Honorable Lisa Cullen, State Constitution County Tax Collector in and for the Brevard County political subdivision; and into Agreement with Dana Blickley, CFA, acting in her capacity as the Brevard County Property Appraiser, for Non-Ad Valorem Assessment Administration; and,

WHEREAS, real property within the City contributes stormwater runoff to the stormwater management system, and the City is responsible for the ownership, maintenance, improvement, and expansion of an existing stormwater management system which has developed over a number of years, and which utilizes a number of lakes, ponds, rivers, basins and retention areas; and,

WHEREAS, the cost of operating and maintaining all stormwater management systems, and the financing of existing and future necessary repairs, replacements, improvements, and extensions thereof, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom; and

WHEREAS, the City of Titusville, Florida, has determined the adoption of this Ordinance is in the best interests of the health, safety, and welfare of the citizens of Titusville, Florida.

NOW, THEREFORE, BE IT ENACTED by the City of Titusville, Florida as follows:

Section 1. That the Code of Ordinances of the City of Titusville, Florida is amended by amending Section 21-266 as follows:

Sec. 21-266. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beneficiaries of stormwater management utility services shall mean all developed land in the city which benefit by the acquisition, management, maintenance, extension, and improvement of the public stormwater systems and regulation of public and private stormwater systems, facilities and activities related thereto, or which will ultimately benefit by the city's stormwater management program. Such benefits may include but are not limited to the provision of adequate systems and programs to ensure the proper collection, control, conveyance, detention, retention, treatment, and release of stormwater runoff, reduction of hazards to property and persons, and improvement of the general health, safety and welfare of the community.

Condominium unit shall mean an individually owned apartment with one (1) or more rooms with a bathroom and kitchen facilities, or a property identified as condominium by the Brevard County Property Appraiser.

Developed land shall mean all property altered from a natural state by grading, paving, compaction, construction of structures, impervious surfaces or drainage works so that stormwater runoff from the property is changed in quantity, quality, or point of discharge from that which would occur in the natural condition.

Equivalent residential unit (ERU) shall serve as a reference from which an equitable distribution of the cost of services and facilities can be made among all properties in the city through a stormwater management service charge rate methodology. The equivalent residential unit in the city for the purpose of service charge ratemaking has been determined through engineering analysis to be a gross area of eleven thousand (11,000) square feet and a coefficient of runoff of .30. Because the hydrologic response of all detached single-family residential properties is substantially similar to this equivalent unit definitions, they shall be billed for one (1) equivalent residential unit.

Hydrologic response of a property shall mean the manner and means whereby stormwater collects, remains, infiltrates, and is conveyed from a property. It is dependent on a number of factors, including but not limited to the size, shape, topography, vegetation, superficial geologic conditions, antecedent moisture conditions, groundwater conditions, and presence of impervious or semi-impervious surfaces on the property.

Impervious surfaces shall mean those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious surfaces include but are not limited to rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, and other surfaces which prevent or impede the natural infiltration or stormwater runoff patterns which existed prior to development.

Intensity of development factor shall mean a decimal factor employed in a stormwater utility service charge rate methodology which generally reflects the degree to which conditions on a property affect the volume and timing of stormwater runoff. The intensity of development factor is similar to the coefficient of runoff used in hydrologic engineering analysis to estimate the peak rate of runoff.

Nonresidential unit shall mean any developed property not fitting the definition of single-family residential unit contained in this section shall be deemed and treated as a nonresidential unit for the purposes of stormwater management service charges. Nonresidential units shall include but not be limited to apartments, boarding houses, hotels and motels, houses used primarily for commercial purposes, commercial properties which include dwelling units, storage areas, railroad rights-of-way, parking lots, park and recreation properties, public and private schools, hospitals and convalescent centers, office buildings, lands in agricultural use which alters the natural hydrologic response, water reservoirs and wastewater treatment plants.

Single-family residential unit shall be located on one (1) or more legal lots as defined by the city zoning code, and shall include houses, manufactured housing and motor homes located on individual lots, and property identified as a single-family residence by the Brevard County Property Appraiser.

Townhouse shall mean single-family dwelling units on independent lots constructed in a series or group involving two (2) or more units with common party walls, and property identified as townhouse by the Brevard County Property Appraiser.

Undeveloped land shall mean land in an unaltered natural state or which has been modified to such minimal degree as to have a hydrologic condition comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

Section 2. That the Code of Ordinances of the City of Titusville, Florida is amended by amending Section 21-272 as follows:

Sec. 21-272. - Service charges.

The city council hereby establishes stormwater management utility service charges which shall be billed to all properties in the city, except as specific exemptions allowed in this article or in future ordinances or amendments to this article shall apply. The stormwater management utility service charges may include a service rate charge applied to each property related generally to the amount and quality of runoff discharged to the public stormwater systems and stormwater receiving waters, a base rate charge for certain costs of service common to all stormwater management utility accounts, and special service charges to persons, entities or properties which require services and/or facilities not commonly needed by all persons, entities, or properties.

- (1) The service rate charge shall be reflective of the cost of providing services and facilities to properly control stormwater runoff quantity and quality. The two (2) most important factors in the city's present cost of providing stormwater management services and facilities to individual properties are:
 - a. The size of each property.
 - b. Its intensity of development.
- (2) (3) Special service charges shall be structured to recover the cost of providing to certain persons, entities and properties stormwater management services that are not commonly required by all stormwater service charge ratepayers. Such services may include but are not limited to private development plan review and inspection, site inspections to verify the operational condition of on-site stormwater management systems such as private detention/retention and conveyance facilities, monitoring and mitigative activities related to conditions on individual properties which impact water quality, and actions to abate conditions on private properties which do not comply with adopted city standards and/or which interfere with proper stormwater management and have been designated by the city manager or a duly authorized representative of the city manager to constitute a public nuisance.

Section 3. That the Code of Ordinances of the City of Titusville, Florida is amended by amending Section 21-273 as follows:

Sec. 21-273. - Service rate charges.

- (a) The city finds and determined that a typical single-family residential property in the city is approximately eleven thousand (11,000) square feet in area, and that the hydrologic response due to the typical intensity of development of such properties would be represented by a coefficient runoff of approximately thirty one-hundredths (.30) in the commonly accepted

rational formula for calculating peak stormwater runoff (Q=CIA): The city council hereby accepts these values as representative of the conditions on a typical single-family residential property in the city, and adopts these values as the equivalent residential unit (ERU) from which stormwater management utility service rate charges will be calculated for nonresidential properties.

- (b) As identified by the Brevard County Property Appraiser: each detached single-family residential property shall be billed service rate charges for one (1) equivalent residential unit; each condominium and townhouse unit shall be billed service rate charges for one-half (½) equivalent residential unit; each duplex shall be billed service rate charges for one (1) equivalent residential unit; each triplex shall be billed service rate charges for one and one-half (1.5) equivalent residential units; each quadruplex shall be billed service rate charges for two (2) equivalent residential units.
- (c) Nonresidential properties shall be billed on the basis of the number of equivalent residential units calculated to exist. Each equivalent residential unit or fraction thereof shall be charged the rate/ERU as defined below. The method of calculating the number of equivalent residential units on properties other than single-family residential, condominiums, townhouses, duplexes, triplexes, and quadruplexes for the purpose of determining the service rate charge shall be as follows:

$SRC = (ASF/ERUSF) * (IDF/ERUIDF) * RATE/ERU$ in which

*SRC = service rate charge per year.

*ASF = the total area (in square feet) of the subject property.

*ERUSF = the equivalent residential unit square footage of the defined ERU (11,000 square feet).

*IDF = the intensity of development factor for the subject property.

*ERUIDF = the intensity of development factor for the defined ERU (.30).

*RATE/ERU = the annual service charge rate per ERU, as established by the city council in this article, in a subsequent ordinance, or by amendment to this article.

- (d) The stormwater utility fee shall constitute a non-ad-valorem assessment, pursuant to the provisions of F.S. § 403.0893.
- (e) On or before September 15 of each year, the City Council shall hold a public hearing to adopt a rate resolution. The rate resolution shall stay in effect until such time as a change in the stormwater utility fee or assessment is proposed. On or before September 15 in the year of a proposed rate change, the board shall hold a public hearing to adopt the modified rate resolution for the purposes of imposing the stormwater utility fee or assessment upon the owners of all real property located within the designated stormwater management system benefit areas. Such rate resolution shall incorporate a schedule of rates and classifications of all affected real property in the designated stormwater management system benefit areas.

Section 4. That the Code of Ordinances of the City of Titusville, Florida is amended by amending Section 21-275 as follows:

Sec. 21-275. - Fee collection.

- (a) Preparation and certification of annual stormwater utility assessment roll to tax collector.
- (a) On or before September 15 of each year, the director shall cause to be prepared an annual stormwater utility assessment roll based on information provided by the property appraiser. Such roll shall contain a summary description of each parcel of real property within the designated stormwater management system benefit areas; the name and address of the owner of each such parcel; the rate classification applicable to each parcel of real property as specified in the rate resolution; and the amount of the annual stormwater utility fee or assessment applicable to each parcel of real property. The summary description of each parcel of real property shall be in such detail as to permit ready identification of each parcel on the real property assessment roll.
- (b) The City Council shall, at any regular or special meeting held on or before September 15 of each year, review the annual stormwater utility assessment roll prepared by the director for its conformity with the rate resolution provided for in section 21-273. The Council shall make such changes or additions as necessary to conform such roll with the rate resolution. Upon the completion of such review, if the board shall be satisfied that the annual stormwater utility assessment roll has been prepared in conformity with the rate resolution, it shall ratify and confirm such roll and certify the roll to the tax collector for appropriate action.
- (c) In the event that any classification of real property designated in the rate resolution requires an individual calculation of the annual stormwater utility assessment, the director shall calculate and determine such annual stormwater utility assessment.

Section 5. That the Code of Ordinances of the City of Titusville, Florida is amended by amending Section 21-276 as follows:

Sec. 21-276. - Exemptions or credits applicable to service charges.

The exemption of property from taxation under state law shall not relieve the owner of any such real property located within a designated stormwater management system benefit area from the provisions of this article, or from the imposition by the City Council of the annual stormwater utility assessment applicable to such real property, as specified in the rate resolution adopted under the provisions of section 21-273.

Except as provided in this section, no public or private property shall be exempt from stormwater management utility service charges or receive a credit or offset against such service charges. No exemption or reduction in the stormwater service charge shall be granted based on the age, tax or economic status, race or religion of the property owner, or other condition unrelated to the cost of providing stormwater services and facilities. The following exemptions and credits shall be allowed:

- (1) Undeveloped lands shall be exempt from stormwater service charges.
- (2) Developed, publicly owned roadways and airport runways which are available for use in common by the general public for transportation shall be exempted from stormwater service charges. These properties may include public road rights-of-way and airport runways owned by the city, county, state or federal government. This exemption shall not

include public lands used for offices, airports excluding runways, maintenance yards, water and wastewater treatment plants, water reservoirs and storage facilities, parking lots, park and recreation facilities, libraries, schools, colleges, universities, social service centers, public housing, public hospitals or convalescent centers, and similar public properties, nor shall the exemption apply to internal site roadways within such public facilities, all of which shall be charged in a manner consistent with that applied to comparable nonpublicly owned properties. This exemption shall not apply to private roads or drives, or to internal roads, drives and parking areas in privately owned, properties regardless of the degree of access to those sites, roads and drives allowed to the general public.

- (3) Retention areas.
- (4) Waterbodies, such as lakes, ponds and rivers without impervious bottoms.
- (5) Notwithstanding the above existing school facilities owned and operated by the Brevard County School Board shall be exempt from stormwater management utility service charges. This exemption shall not apply to charter schools.

Section 6. Severability. Should any part of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions hereof shall not be affected and shall remain in full force and effect.

Section 7. Conflicts. To the extent that any other Ordinance of the City of Titusville shall be in conflict with this Ordinance, the provisions of this Ordinance shall prevail.

Section 8. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this 22nd day of August 2017.



WALT JOHNSON, MAYOR



ATTEST:



WANDA WELLS, CITY CLERK