

ORDINANCE NO. 537

AN ORDINANCE OF THE CITY OF SPRINGFIELD, FLORIDA AMENDING THE CODE OF ORDINANCES TO CREATE A STORMWATER MANAGEMENT UTILITY SYSTEM; SPECIFYING TERMS AND PROCEDURES FOR SAID SYSTEM; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1, Florida Constitution (1968), and Chapter 166, Florida Statutes, as amended, the City Commission of the City of Springfield, Florida, has all powers of local self-government to perform City functions and to render City services in a manner not inconsistent with general or special law, and such power may be exercised by the enactment of City ordinances; and

WHEREAS, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities such as the City, to implement stormwater management programs within prescribed timeframes; and

WHEREAS, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., the United States Environmental Protection Agency has published proposed rules for stormwater outfall permits; and

WHEREAS, the City of Springfield is responsible for the ownership, maintenance and expansion of the existing stormwater system which has been developed over a number of years for the purpose of collecting and disposing of stormwater; and

WHEREAS, the City of Springfield is developing a revised and updated city-wide Stormwater Management Plan; and

WHEREAS, said plan indicates that the present system is inadequate to control and manage stormwater runoff within the City of Springfield; and

WHEREAS, said plan has additionally concluded that it will be necessary and essential to construct improvements and extensions to the existing system to ensure that the collection and disposal of stormwater within the City limits adequately protects the health, safety, and welfare of the citizens of the City of Springfield; and

WHEREAS, it is necessary and essential that the City address the various environmental issues that will further burden its infrastructure requirements;

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SPRINGFIELD, FLORIDA:

Section 1. Authority. The City of Springfield is authorized by the Florida Constitution and the provisions of Florida Statutes Chapter 166 and Section 403.0893 to construct, reconstruct, improve, and extend stormwater utility systems and to issue revenue bonds and other debts if needed to finance in whole or part the cost of such system and to establish just and equitable rates, fees, and charges for the services and facilities provided by the system.

Section 2. Findings and Determinations. It is hereby found, determined, and declared as follows:

A. Those elements of the system which provide for the collection of and disposal of stormwater and regulation of groundwater are of benefit and provide services to all property within the City of Springfield, including property not presently served by the storm water system.

B. The costs of operating and maintaining the City Stormwater Management System and financing necessary repairs, replacement, improvements, and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.

Section 3. Definitions. For the purpose of this Ordinance, the following definitions 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.

Availability Charge means a charge to a developer or individual resident to recover the Debt Service and Extension and Replacement costs paid on a Stormwater Management System facility that had been previously constructed, but which serves such developer or individual resident.

Bonds means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the Costs of Construction.

Costs of Construction means costs reasonably incurred in connection with providing capital improvements to the System or any portion thereof, including but not limited to the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor, (2) physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction, (7) principal of and interest of any Bonds, and (8) miscellaneous expenses incidental thereto.

Debt Service means, with respect to any particular Fiscal Year and any particular series of Bonds, an amount equal to the sum of (1) all interest payable on such Bonds during such Fiscal Year, plus (2) any principal installments of such Bonds during such Fiscal Year.

Developed Property means real property which has been altered from "natural" state by the addition of any improvements such as a building, structure, or impervious surface. For new construction, property shall be considered developed pursuant to this Ordinance: (1) upon issuance of a Certificate of Occupancy, or upon completion of construction or final inspection if no such certificate is issued; or (2) if construction is at least 50 percent complete and construction is halted for a period of three (3) months.

Director means the Public Works Director or his designee.

Dwelling Unit means a single unit or apartment providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Equivalent Residential Unit or ERU means the average Impervious Area of Residential Developed Property per Dwelling Unit located within the City and as established by Commission resolution as provided herein.

ERU Rate means a Utility Fee charged on each ERU as established by Commission resolution as provided herein.

Extension and Replacement means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the System, or land acquisition for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the Costs of Construction, or any other expenses which are not costs of Operation and Maintenance or Debt Service.

Fee-in-Lieu-of Charge means a charge to a developer or individual resident to recover (1) the Costs of Construction and Debt Service on a new Stormwater Management System facility which serves such developer or individual resident, or (2) the Extension and Replacement costs necessitated by development undertaken by such developer or individual resident.

Fiscal Year means a twelve-month period commencing on the first day of October of any year, or such other twelve-month period adopted as the Fiscal Year of the Utility.

Impervious Area means metal roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, patios, porches, driveways, sidewalks, parking areas and athletic courts.

Non-Residential Developed Property means Developed Property that is classified by the Property Appraiser as land use types 10 through 99 using the Florida Department of Revenue Land Use Codes, as amended or supplemented, excluding land use types 50 through 69.

Operating Budget means the annual Utility operating budget adopted by the City for the succeeding Fiscal Year.

Operations and Maintenance means the current expenses, paid or accrued, of operation, maintenance and current repair of the System, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

Property Appraiser means the Office of the County Property Appraiser.

Residential Developed Property means Developed Property that is classified by the Property Appraiser as land use types 00 through 09 using the Florida Department of Revenue Land Use Codes, as amended or supplemented.

Revenues mean all rates, fees, assessments, rentals or other charges or other income received by the Utility, in connection with the management and operation of the System, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by all as calculated in accordance with sound accounting practice.

Stormwater Management System or System means the existing stormwater management of the City and all improvements thereto which by this Ordinance are constituted as the property and responsibility of the Utility, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

Undeveloped Property means property which is not Developed Property. For the purposes of this Ordinance, Undeveloped Property includes, but is not limited to, parcels identified by the Property Appraiser as agricultural with land use types 50 through 69 using the Florida Department of Revenue Land Use Codes, as amended or supplemented.

Undisturbed Area means all or a portion of a parcel which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

Utility Fee means a Utility fee authorized by Florida law and this Ordinance which is established to pay Operations and Maintenance, Extension and Replacement and Debt Service.

Stormwater Management Utility or Utility means the enterprise fund utility created by this Ordinance to operate, maintain and improve the system.

Vacant ERU or VERU means the stormwater runoff potential of an Undeveloped Property relative to a single family parcel of the same size. For the purposes of this Ordinance, there shall be 0.36 VERU per acre of Undeveloped Property.

Vacant ERU Rate or VERU Rate means the Utility Fee charged to each VERU as established by the Commission by resolution as provided herein.

Section 4. Establishment of Stormwater Management Utility.

A. The Stormwater Management Utility is hereby established by the Commission to provide for the general welfare of the City and its residents.

B. The Director shall be the chief staff member of the Utility.

Section 5. Operating Budget. The City shall adopt an Operating Budget not later than the first day of each Fiscal Year. The Operating Budget shall set forth for such Fiscal Year the estimated Revenues and the estimated costs for Operations and Maintenance, Extension and Replacement and Debt Service.

Section 6. Required Levels of Rates for Utility Fees. The Commission shall require that adequate Revenues are generated to provide for a balanced Operating Budget by at least annually setting sufficient levels of Utility Fees.

Section 7. Imposition of Utility Fees and Rate Schedule. The Commission hereby authorizes the imposition of Utility Fees on all property within the City.

A. Property Classification. For the purposes of determining the Utility Fee, all property within the City shall be classified, into one of the following classes:

1. Residential Developed Property;
2. Non-Residential Developed Property; or
3. Undeveloped Property.

B. Computation of Utility Fee for Non-Residential Developed Property. The Utility Fee for Residential Developed Property shall be the ERU Rate multiplied by the number of individual Dwelling Units existing on the Property.

C. Computation of Utility Fee for Non-Residential Developed Property. The Utility Fee for Non-Residential Developed Property shall be the ERU Rate multiplied by the numerical factor obtained by dividing the total Impervious Area of a Non-Residential Developed Property by one ERU. The minimum Utility Fee for any Non-Residential Developed Property shall be equal to one ERU Rate.

D. Computation of Utility Fee for Undeveloped Property. The Utility Fee for Undeveloped Property shall be equal to the VERU Rate times a numerical factor

determined by multiplying the total acreage of the parcel excluding Undisturbed Areas by 0.36 VERU per acre.

Section 8. Billing and Payment, Penalties.

A. The method of collection of the Stormwater Management Utility Fee shall be established before October 1, 2017, at which time the Commission shall hold a public hearing to consider adopting a resolution of intent to place the Fee on the Tax Bill as a non-ad valorem Assessment (Fee) pursuant to Section 197.3632 of the Florida Statutes.

B. In the event the Commission adopts the resolution of intent to place the Fee on the Tax Bill, the Commission shall further hold a public hearing between June 1 and September 15, 2017, to adopt a non-ad valorem assessment roll as provided by Section 197.3632(4), and give all statutory notices for the hearing. The Commission shall adopt a Rate Resolution prior to adopting the non-ad valorem assessment roll. The Rate Resolution may be considered at the same public hearing set to adopting the roll.

C. In the event the annual Stormwater Management Utility Fee is collected pursuant to Section 197.3632, Florida Statutes, it shall be subject to all collection provisions of Chapter 197, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment, as provided by law. Such Assessment (Fee) is subject to becoming a lien against homestead, as provided in Section 4, Article X, Florida Constitution.

D. In the event the Commission does not adopt the resolution of intent to place the Assessment (Fee) on the Tax Bill, it shall establish an alternative method of collection.

Section 9. Adjustment of Fees.

A. Request for adjustment of the Utility Fee shall be submitted to the Director who is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious area on the site. No credit shall be given for the installation of facilities required by City development codes or State Stormwater Rules. The following procedures shall apply to all adjustment requests of the Stormwater Fee:

1. Any owner who has paid his Utility Fees and who believes his Utility Fee to be incorrect may, subject to the limitations set forth in this article, submit an adjustment request to the Director.

2. Adjustment requests for the Utility Fees shall be in writing and must set forth, in detail, the grounds upon which relief is sought.

3. Adjustment requests made during the first calendar year that the Utility Fee is imposed will be reviewed by the Director within a two (2) month period from the date of filing of the adjustment request. Adjustments resulting from such request shall be retroactive to the beginning of billings, but retroactive adjustment shall not exceed one (1) year.

4. The owner requesting the adjustment may be required, at his own cost, to provide supplemental information to the Director including, but not limited to, survey data approved by either a registered professional land surveyor (R.P.L.S.) and engineering reports approved by a professional engineer (P.E.). Failure to provide such information may result in the denial of the adjustment request.

5. Adjustments to the Utility Fee will be made upon the granting of the adjustment request, in writing, by the Director. Denials of adjustment requests shall be made, in writing, by the Director.

6. If the Assessment (Fee) is placed on the Tax Bill, the adjustment request must be made within sixty (60) days after opening of the Tax Roll collection. If the Assessment (Fee) is not placed on the Tax Bill, the adjustment request must be made during the Year the Assessment (Fee) is imposed. The adjustment request will be reviewed by the Director within a four (4) month period from the date of filing of the adjustment request. Consideration by the Director of the Owner's request for adjustment shall not relieve the owner of the obligation to make timely payment of the Assessment (Fee). In the event an adjustment is granted by the Director which decreased the Assessment (Fee), the owner shall be entitled to a refund of excess Assessments (Fees) paid. If the Assessment (Fee) is placed on the Tax Bill, the refund shall be mailed by the Tax Collector.

B. If the Assessment (Fee) is placed on the Tax Bill, any errors in the Assessment (Fee) or failure to charge an Assessment (Fee) may be corrected by the Director within sixty (60) days after opening of the Tax Roll for collection. If the Assessment (Fee) is not placed on the Tax Bill, any errors in the Assessment (Fee) or failure to charge an Assessment (Fee) may be corrected by the Director during the Year in which the Assessment (Fee) is imposed. Corrections which result in an increase in the Assessment (Fee) cannot be imposed until the owner has consented in writing to the increase or has been given at least ten (10) days notice by certified mail and an opportunity to be heard by the Commission. Once the fee is finalized, the Director shall send documentation

reflecting the adjustment to the owner and, if the Assessment (Fee) is placed on the Tax Bill, the documentation will also be sent to the Tax Collector.

1. The Commission, shall complete their review within thirty (30) days of receipt of said request for review. The City Commission's determination on the review shall be in writing and set forth in detail, the reasons for their decision.

2. In reviewing denials of adjustment requests, the City Commission shall apply the standards and review criteria contained in this Section.

Section 10. Capital Contributions.

A. Where the City has constructed or plans to construct stormwater facilities which are proposed to be used by a developer in lieu of a facility usually required to be constructed by him, the City may accept a capital contribution from the developer and waive certain construction requirements.

B. Procedures and standards developed by the City shall define appropriate means to optimize the developer's capital contributions in the construction or refunding of stormwater systems. These capital contributions shall take the form of Fee-in-lieu-of or Availability Charges. Each situation will be analyzed by the City and a specific written decision will be developed. The application of each is defined as follows:

1. Fee-in-lieu-of is applied to a site specific negotiated procedure, wherein a development's stormwater contribution (quantity and quality) is assessed its share of the capital needs of the facilities required to serve the development in question. This capital contribution would be used for the construction or refunding of City-owned stormwater facilities. The process does not apply wherein the stormwater facilities are privately held. Each application is evaluated against the City's Master Plan, or where the Master Plan is incomplete, against the cumulative impacts from the development.

2. Availability Charge is administered on a site specific basis identical to the Fee-in-lieu-of procedure noted above. The only difference is that the capital investment advanced by the City in implementing a stormwater facility is now recovered through an availability charge. The capital charge is determined on a pro-rata share of the capacity used by the new applicant as measured by the cumulative impact from the development upon all impacted facilities applied to the present worth of the original capital expenditure. In the case of a developer constructing Stormwater Management Facilities in excess of the site needs, the City may enter an agreement with that developer to rebate Fee-in-lieu-of charges paid to the City by other developers utilizing those

facilities over a period of time not exceeding seven (7) years from the date of the agreement.

Section 11. Program Responsibility. It shall be the duty of the Public Works Director to administer the Stormwater Management Utility. The Public Works Director shall keep an accurate record of all persons using the services and facilities of said Stormwater Management System of the City and to make changes in accordance with the rates and changes established in this Ordinance.

Section 12. Stormwater Management Utility Funds. There shall be established a Stormwater Management Utility Fund for the deposit of all fees and charges collected by the stormwater utility. These funds shall be for the exclusive use of the City's Stormwater Management Utility, including but not limited to the following:

A. Administrative Costs associated with the management of the Stormwater Management Utility.

B. Planning and Engineering.

C. Operation and Maintenance of the System.

D. Funding of pollution abatement devices constructed on stormwater systems discharging to the surface water of the City.

E. Debt Service financing

Section 13. Conflicts. All ordinances or parts of ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of any conflict.

Section 14. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

Section 15. Effective Date. This Ordinance shall take effect immediately upon its adoption by the Springfield City Commission.

ADOPTED AT A REGULAR COMMISSION MEETING THIS 1st DAY OF May, 2017.

CITY OF SPRINGFIELD, FLORIDA



A handwritten signature in blue ink, which appears to read "Ralph Hammond", is written over a horizontal line.

Ralph Hammond, Mayor

ATTEST:

A handwritten signature in blue ink, which appears to read "D. Lee Penton", is written over a horizontal line.

D. Lee Penton, City Clerk