

CITY OF PANAMA CITY BEACH STORMWATER UTILITY

Chapter 23

ARTICLE IX. STORMWATER UTILITY

Sec. 23-210. Findings and authority.

(a) The Stormwater Management System: The City presently owns and operates a stormwater management system which has been developed over a number of years to collect, treat and dispose of storm and other surface waters that occur as a result of natural or unnatural events that may adversely affect the health, safety and welfare of the public through, but not limited to flooding of rights-of-way that may endanger motorists and pedestrians, damage from flooding of private and public property, stagnant water that may breed pests that carry disease, and movement of contaminants for contamination courses to otherwise clean water bodies and the beach. ~~A number of studies and investigations have been and are currently being conducted by the City, and such studies, investigations and common experiences have indicated that the present system is inadequate to control and manage stormwater runoff within the City. The October 2001 City of Panama City Beach Amended and Restated Comprehensive Growth and Development Plan provides that the City will create a stormwater master plan or program as required by Section 403.0891, Florida Statutes. It is necessary and essential to plan, design and construct improvements and extensions to the system to ensure that the collection and disposal of stormwater within the City is accomplished in order to protect the health, safety and welfare of the citizens of the City.~~

(b) Authority: The City is authorized by the provisions of Chapter 166, and Section 403.0893, Florida Statutes, and the Florida Constitution to plan, construct, operate and maintain stormwater management systems and to issue revenue bonds

and other debts if needed to finance in whole or part the cost of such systems and to establish just and equitable rates, fees and charges for the services and facilities provided by the systems.

(c) Findings and Determinations: It is hereby found, determined and declared as follows:

(1) -Those elements of the system for the collection of and disposal of storm and surface water are of benefit and provide services to all developed property within the City, including property not presently served by the storm elements of the system.

(2) The process of collecting data, developing a stormwater master plan and designing improvements and extensions to the system is of benefit to all developed property within the City.

(3) The cost of operating and maintaining the City stormwater management system and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the user impacts, benefits enjoyed and services received therefrom.

(4) A number of studies and investigations have been and are currently being conducted by the City, and such studies, investigations and common experiences have indicated that the present system is inadequate to control and manage stormwater runoff within the City.

(5) The October 2001 City of Panama City Beach Amended and Restated Comprehensive Growth and Development Plan provides that the City will create a stormwater master plan or program as required by

Section 403.0891, Florida Statutes.

(6) It is necessary and essential to plan, design and construct improvements and extensions to the system to ensure that the collection and disposal of stormwater within the City is accomplished in order to protect the health, safety and welfare of the citizens of the City.

(7) Stormwater management system services can be legally funded through the collection of a stormwater user fee to be collected from benefiting properties in accordance with the benefits they receive. Benefits include, but are not limited to development of the stormwater system, administrative oversight of the stormwater management program, operation and maintenance of the stormwater management facilities and construction of capital improvements to improve stormwater management by the City.

(48) Some of the benefits to property within the City are shared by those properties in the adjacent, unincorporated territory which lie within a common drainage basin, and the City desires to cooperate with Bay County, Florida to coordinate those benefits and the burden of providing them.

(59) Changes made to the land result in an increased rate of stormwater runoff, an increased volume of runoff and an increase in the pollution in the runoff, unless the typically occurring stormwater runoff is completely contained onsite. These adverse impacts create a need for government stormwater services. ~~These services can be legally funded through the collection of a stormwater~~

~~user fee.~~ This user fee is to manage the impacts from the modified hydrologic response to rainfall that results from a party electing to develop his or her property. ~~When a party elects to develop their land, a choice has been made to undertake an activity which will create a need for government services. Those services are mandatory. Even if the party chooses to eliminate or reduce the routine need for any such services by retaining on site all or a portion of impacts typically occurring during a certain level of storm event, the property will still be benefitted by the availability and actual use of the stormwater system in a larger storm event or in the event of a failure of on-site facilities. The conversion of pervious surfaces to impervious surfaces is one of the primary factors that result in the adverse hydrologic response from land development. Therefore, the City finds that measurement of impervious surfaces is a reasonable and fair method of apportioning the costs for the services necessary to manage stormwater impacts. By utilizing this method the beneficiaries are charged based on their relative contribution to the impacts that created the need for the services.~~

Section 23-211. ~~Stormwater Management User Fee, Retention Credit and Minimum Availability Charge Authorized.~~

~~A stormwater management user fee (hereinafter, stormwater fee) shall be imposed on each developed lot or parcel in the City. The stormwater fee shall fund the development and administration of a stormwater master plan, and the stormwater program services and facilities necessary to address the collective, off-site adverse impacts which result from land development. Any person or entity responsible for paying the stormwater fee who chooses to reduce the use of stormwater program services may elect to develop their property in a manner that retains stormwater discharges on site, and shall receive against the stormwater fee a credit based upon the level of retention provided. To receive a retention credit, the responsible party~~

~~must verify retention of stormwater on site by submitting for review and approval by the City certified engineering drawings and calculations demonstrating that one hundred percent (100%) of the minimum volume of runoff from the property required to be retained to receive the credit sought will be retained. Retention means to keep on site without ever discharging. A minimum availability charge will be imposed upon all developed properties.~~

~~Section 23-212.~~ Schedule of Rates and Retention Credits.

(a) The City Council, upon recommendation of the City Manager, shall by resolution establish reasonable stormwater fees to develop and administer a stormwater master plan, and provide for stormwater utility services and facilities necessary to address impacts from properties developed for residential and non-residential uses. ~~Initially, a minimum administrative~~ An initial stormwater management system ~~“Development Fee” fee~~ shall be charged to defray the cost of developing and administering a stormwater master plan and developing a reasonable and fair method of apportioning among developed properties the costs for the services necessary to manage stormwater impacts. ~~No retention credit shall be given against the administrative fee.~~

~~(b) Upon completion of development of a reasonable and fair method of apportioning among developed properties the costs for the services necessary to manage stormwater impacts, including all costs related to the stormwater management system, including but not limited to administration, When the apportionment methodology is available and the capital, operating and maintenance costs to implement the stormwater master plan are known~~ management program, ~~the stormwater fee shall be set using a standard billing unit for impervious area which shall be referred to as an Equivalent Residential Unit or ERU. One ERU will be equal to the median impervious area statistically associated with detached, single family dwellings in the City, which median area shall be stated in the rate resolution. The~~ a rate resolution

shall establish ~~a~~the base, monthly stormwater fee to be charged each ERUbenefiting property.

(~~cb~~) The rate resolution shall specify the median impervious area statistically associated with ~~attached,~~ single family dwellings in the City.

(~~de~~) The rate resolution shall specify the amount of retention credit or credits available, expressed as a percentage of the fee otherwise due. ~~For each level of credit available, the minimum volume of runoff from the property required to be retained shall be specified, expressed either in terms of retaining all runoff from a tier of specified events or in terms of retaining a tier of percentages of runoff from a common event.~~

(~~de~~) The minimum ~~availability chargefee~~ shall be specified in the rate resolution.

~~(e) A single family dwelling means a structure designed for occupancy by one or more persons living together as a single, not-for-profit housekeeping unit. Detached, single family dwellings include, but are not limited to, site-built homes, modular homes and mobile or manufactured homes. Attached, single family dwellings include, but are not limited to, individual apartments, condominiums, townhomes and other common-wall dwellings.~~

Section 23-~~2132~~212. Charges and Collection.

(a) The stormwater fee shall be billed on the City's consolidated utility bill, ~~when where~~ possible. ~~The stormwater fee will be charged~~ to the City utility account of the person or entity responsible for paying for stormwater program services for the property. The party responsible for payment may be the parcel owner, owner's property manager, a lessee, renter, occupant, or some other individual or ~~entity depending on~~

~~circumstances as described in the following subsections. In paying the consolidated utility bill, for the purposes of this ordinance, it is assumed that the stormwater fee shall be the first fee paid.~~

~~(a) Residential Use Properties:~~

~~(1) Each detached, single family dwelling unit shall be charged the base rate of one ERU per month. Each attached, single family dwelling unit shall be charged the product of multiplying the base rate of one ERU times the result of dividing (i) the median impervious area statistically associated with attached, single family dwellings in the City by (ii) one ERU.~~

~~(2) Single dwellings and individual meters: When one or more dwellings with individual meters are located on a parcel, the stormwater fee will be charged to the City utility account of the party responsible for payment for stormwater program services for each dwelling. The responsible party may be the owner, or a lessee, renter, occupant, or similar party if the owner's agreement with such a party assigns responsibility for payment of other City-provided utilities to such party.~~

~~(3) Multiple dwellings: When multiple dwellings exist on a property and the dwellings are not individually metered, the party responsible for payment of charges for the master meter serving the dwellings shall be billed the appropriate stormwater fee established for type of dwellings multiplied by the respective number of such dwellings on the property.~~

~~(b) Non-residential Use Properties:~~

~~(1) Billing and computation of ERUs: All non-residential properties, i.e., enterprises, business establishments, governmental establishments, buildings or other non-residential occupancies or developed land uses not covered by subsection (a) of this section, shall be billed based on the number of ERUs which the impervious area on the property represents. To compute the number of ERUs the total amount of impervious area on the property shall be divided by the area established by the rate resolution for a single ERU. The resulting multiple number of ERUs shall then be multiplied by the base monthly rate per ERU as established by the rate resolution of the City Commission. The calculation of ERUs associated with a property shall be computed to the nearest tenth (0.1) ERU.~~

~~(2) Changes in impervious surfaces: The total impervious area on a developed, non-residential property and the number of ERUs and stormwater utility fee associated therewith shall be updated by the City Manager or designee based on alterations to the impervious area on a parcel. The owner shall be responsible for informing the City of changes to the impervious area on a parcel and paying the revised fee from the date of change, but this information may be developed from information obtained from City records established in the development permitting process or by physical measurements or other verification methods which may be available. The City shall not be obligated to refund any overpayment resulting from a reduction of impervious surface.~~

~~(3) Billing a single non-residential use: If development of a parcel is such that only a single non-residential occupancy will be associated with the parcel, the stormwater fee will be charged to the utility account of the party responsible for payment for stormwater program services for the property. No individual metered non-residential property shall be~~

~~billed less than one (1.0) ERU. The responsible party may be the owner, or a lessee, renter, occupant, or similar party if the owner's agreement with such a party assigns responsibility for payment of other City-provided utilities to such party.~~

~~(4) Billing properties which are not individually metered: If development of a parcel is such that multiple, non-residential occupancies will be associated with the parcel and these occupancies are not individually metered, the party responsible for payment of the total user fee for stormwater program services to the property shall be the owner unless the owner by agreement has assigned responsibility for payment to a single lessee, renter or occupant with an active utility account and the city has received adequate evidence that such an assignment has been accepted, in which case the City will charge the stormwater fee to an active City utility account of the assigned responsible party.~~

~~(5) Billing individually metered properties: If development of a parcel is such that multiple, non-residential occupancies will be associated with the parcel and these occupancies are individually metered, the party responsible for payment of the total user fee for stormwater program services to the property shall be the owner unless the owner by agreement has assigned responsibility for payment to a single or multiple lessees, renters or occupants, each of whom must have an active City utility account. If the owner by agreement has assigned responsibility for payment of the total user fee for stormwater program services to a single lessee, renter or occupant that has an active City utility account, and the city has received adequate evidence that such an assignment has been accepted, the City will charge the stormwater fee to an active City utility account of the assigned responsible party. If the owner wishes to assign responsibility for payment of parts of the total~~

~~stormwater fee for the property to multiple lessees, renters, or occupants that have active City utility accounts, the owner must provide adequate documentation of how the total bill shall be allocated and evidence of the fact that all assignees have agreed, in which case the City will then charge portions of the total stormwater fee to the active City utility accounts held by the assigned, responsible parties.~~

(~~eb~~) Billing other City utility accounts: If the party responsible for payment of the stormwater fee for a property does not have an active City utility account serving the property, the stormwater fee may be billed to a City utility account at a different location which is held in the name of the responsible party or the responsible party's property manager or agent. If a lessee, renter or other occupant of a property has by agreement with an owner, been assigned responsibility for payment of the stormwater fee, and the assignee closes all utility accounts with the City, the responsibility for payment of the stormwater fee shall revert to the owner.

(~~ec~~) Assignments: If a lessee, renter or other occupant of a property has by agreement with an owner, been assigned responsibility for payment of the stormwater fee, and the assignee closes all utility accounts with the City, the responsibility for payment of the stormwater fee shall revert to the owner. In case of assignment of responsibility for payment of the stormwater fee, the owner of the property shall be responsible for notifying the City of the assignee's name and address.

(~~ed~~) If there is no party responsible for payment of the stormwater fee who also has a utility account with the City, then the City shall, no less than annually, render a statement -for the fee due in arrears to the owner whose name and address are shown by reference to the latest ad valorem tax roll and who shall be responsible for payment.

~~(a) — Residential Use Properties~~

~~(1) — Detached, single-family dwelling units and stand-alone mobile homes shall be charged at the base rate of one ERU per month.~~

~~(2) — Individually-metered condominium dwelling unit charges shall be calculated by dividing the total ERUs associated with the entire condominium group by the total number of condominium units.~~

~~(3) — Individually-metered apartment unit charges shall be calculated by dividing the total ERUs associated with the apartment complex divided by the total number of apartment units.~~

~~(4) — Master-metered Mobile Home Parks charges shall be calculated based on the total number of ERUS associated with the Mobile Home Park.~~

~~(5) — Master-metered apartments and other attached residential dwelling charges shall be calculated based on the total number of ERUS associated with the units served by the master meter.~~

~~(6) — Duplexes, triplex, and quadraplex charges shall be calculated by multiplying the total number of units per meter by the base rate of one ERU per unit.~~

~~(b) — Non-residential Use Properties~~

~~(1) — Individually-metered commercial condominium charges shall be calculated by dividing the total ERUs associated with the group of condominium units multiplied by the ownership interest, or other method of allocation acceptable to the condominium owners.~~

~~2) All other non-residential properties, including governmental establishments, and other traditionally tax-exempt properties and other occupancies not covered by subsection (a) of this section, shall be billed based on the number of ERUs allocated to that part of the property on which the account resides.~~

Section 23-214213. Manager to Keep Records, Make Charges: It shall be the duty of the City Manager or his/her designee to keep an accurate record of all utility account holders being charged for using the services and facilities of the municipal stormwater management system of the City and to make charges in accordance with the rate resolution approved by the City Commission as provided herein.

ADD TO ADOPTING ORDINANCE:

Severability: If any portion of this ordinance or Chapter 23 is held invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance or Chapter 23.

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