

ORDINANCE NO. 14-25

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE 5, "PUBLIC WORKS," CHAPTER 56, "STORMWATER," "SECTION 56.02, "SCOPE AND PURPOSE," TO CLARIFY THE REFERENCE TO THE SYSTEM; AMENDING SECTION 56.04, "DEFINITIONS," AMENDING THE DEFINITIONS FOR COMMON ELEMENT, NONASSESSED PROPERTY, STORMWATER MANAGEMENT ASSESSMENT, AND UNIMPROVED LAND, AND ADOPTING DEFINITIONS FOR CONDOMINIUM PROPERTY, CONDOMINIUM UNIT, AND COOPERATIVE, TO EXPAND DEFINITIONS AND CLARIFY ASSESSMENT METHOD, TO ESTABLISH A STANDARDIZED RATE FOR UNIMPROVED LAND, TO ALIGN WITH THE FLORIDA STATUTES FOR NON-AD VALOREM ASSESSMENTS FOR COMMON ELEMENTS; AMENDING SECTION 56.15, "IMPOSITION OF STORMWATER MANAGEMENT ASSESSMENT, CLASSIFICATION AND CRITERIA," TO ADD CONDOMINIUM PROPERTY AS AN ADDITIONAL CLASSIFICATION; AND AMENDING SECTION 56.16, "ESTABLISHMENT OF RATE FOR STORMWATER MANAGEMENT ASSESSMENTS" TO CLARIFY HOW COMMON ELEMENTS ARE ASSESSED; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City provides stormwater related services for the benefit of all properties within the City; and

WHEREAS, the City is responsible for the management of stormwater infrastructure, the operations and maintenance of the stormwater system, and regulatory compliance associated with its Municipal Separate Storm Sewer System (MS4) permit and applicable State and Federal laws associated with the Clean Water Act; and

WHEREAS, the City needs adequate funding to meet its stormwater management obligations, including maintaining adequate reserves and to fund Capital Improvement Programs to address current and future stormwater management needs across the City; and

WHEREAS, the City needed to clarify definitions to differentiate between types of assessed residential developed properties, unimproved land, and non-assessed properties; and

WHEREAS, the City Stormwater assessment needs to align with Florida Statutes when distributing residential common element parcels to individual parcel owners within a platted subdivision; and

WHEREAS, unimproved land will be assessed a minimum of one stormwater unit; and

WHEREAS, additional exemptions will be included to the stormwater assessment; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Delray Beach as set forth in Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling laws.

WHEREAS, the City Commission of the City of Delray Beach finds adoption of this Ordinance to be in the best interest of the residents of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitations set forth above are incorporated herein.

Section 2. Title 5, "Public Works," Chapter 56, "Stormwater," Section 56.02, "Scope and Purpose," of the Code of Ordinances is hereby amended as follows:

**Sec. 56.02. - SCOPE AND PURPOSE.**

The scope and purposes of this Chapter are:

- (A) To provide for effective management and financing of a stormwater management system (the "system") within the City (~~the "system"~~);
- (B) To provide a mechanism for mitigating the damaging effects of uncontrolled and unplanned stormwater runoff from both a water quality and water quantity standpoint;
- (C) To improve public health, safety and welfare by providing for safe and efficient capture and conveyance of stormwater runoff and the correction of stormwater problems;
- (D) To authorize the establishment and implementation of a master plan for stormwater drainage including design, coordination, construction, management, operation, maintenance, inspection and enforcement;
- (E) To establish a reasonable stormwater management assessment based on each property's estimated contribution of stormwater runoff to the system and the benefit derived from the use of the facilities of the system;
- (F) To encourage and facilitate urban water resources management techniques, including but not limited to the retention-detention of stormwater runoff, minimization of the need to construct storm sewers, and the enhancement of the environment; and
- (G) To provide for the issuance of bonds to finance additions, extensions and improvements to the system

Section 3. Title 5, “Public Works,” Chapter 56, “Stormwater,” Section 56.04, “Definitions,” of the Code of Ordinances is hereby amended as follows:

**Sec. 56.04. - DEFINITIONS.**

The following words, when used herein, shall have the meanings indicated, unless the context indicates otherwise:

*Act.* Shall have the meaning set forth in Section 56.01 of this Chapter.

*Benefited area.* The geographical boundaries of the City, including all future annexations and consolidations.

*City.* The City of Delray Beach, Florida, a municipal corporation.

*Commission.* The City Commission of the City of Delray Beach, Florida, acting as the governing body of the City.

*Common Element.* As may be defined by Fla. Stat. § 193.0235 and referenced in Section 56.16, a Common Element is:

- 1) Subdivision property within a platted residential subdivision or site plan not included within parcels which are intended to be conveyed or have been conveyed into individual ownership, which property is utilized exclusively for the benefit of parcel owners of such platted subdivision and are designated on the plat or approved site plan as a Common Element for the exclusive benefit of parcel owners;
- 2) An easement through the subdivision property, not including the property described in paragraph (1), which has been dedicated to the public use or retained for the benefit of the subdivision;
- 3) Any other part of the subdivision which has been designated on the plat or is required to be designated on the site plan as a drainage pond, or detention or retention are, for the exclusive benefit of the subdivision.

*Condominium Property.* Refers to the condominium properties as designated by Palm Beach County Assessor’s Office.

*Condominium Unit.* Refers to a residential or a non-residential aggregate of the undivided interest, owned individually in a portion of a condominium property, and a shared interest in the common areas of the same condominium property.

Cooperative. A business entity, usually a corporation, that holds title to realty and that grants rights of occupancy to its shareholders by means of proprietary leases or similar devices.

*Consulting engineer.* A qualified engineer or engineering firm licensed in the State of Florida and retained by the City to perform the acts and carry out the duties relating to the system, as required by the City.

*Developed property.* Any property with impervious area on such property.

*Existing system.* The City's stormwater system and facilities existing at the time of the enactment of this Chapter.

*Impervious area.* An area which either prevents or retards the entry of water into the soil mantle. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel, and other surfaces which similarly impact infiltration and runoff, unless such property is classified nonassessed property.

*Nonassessed property.* Public Rights-of-Way, lakes, rivers, ponds, and other bodies of water not utilizing or having a direct or indirect impact on the system, any property on which is retained 100 percent of the total volume of runoff within the property (measured on the basis of a 72-hour, 100-year storm event), tax-exempt properties owned by religious organizations, properties owned by the School District of Palm Beach County, Florida Department of Transportation (FDOT), Lake Worth Drainage District (LWDD), Military, State and Federal Agencies, and such other properties within the benefited area which may be determined by the Director to be exempt from the payment of the stormwater management assessment.

*Nonresidential property.* Any developed property which does not have as its major use a place of residence and is not classified as residential by the Palm Beach County Property Appraiser.

*Residential property.* Any developed property which has the majority use as a place of residence and is so classified by the Palm Beach County Property Appraiser. This includes any properties designated as single family residential, townhouse, or mobile home by the Palm Beach County Property Appraiser.

*Stormwater Billing Unit (SWU).* The base billing unit for determining stormwater management assessment within the benefited area. An SWU is numerically equal to five hundred (500) square feet of impervious area.

*Stormwater management assessment.* A non-ad-valorem assessment imposed by the City pursuant to this Chapter and F.S. Section 403.0893, as amended and supplemented, on all developed property which is not a nonassessed property, and on all unimproved land which is not a nonassessed property, in the benefited area. The assessment imposed on all developed property shall be in relation to each such property's estimated contribution of stormwater runoff to the system, as determined by impervious area, and the benefit derived from the use of the facilities of the system, and the future improvements to be funded from stormwater management assessments. ~~The assessment imposed on all unimproved land shall at least be equivalent to the Tier 1 stormwater management assessment of a Residential property.~~ Such stormwater management

assessment shall include a pro-rata cost of the operation and maintenance of the system, based on the same proportion of benefit assessed against each parcel within the benefited area.

*Surface water management permit.* A South Florida Water Management District permit for surface water management facilities.

*System.* The City's unified stormwater management system, as more particularly described in subsection 56.03(B) of this Chapter, and including management services such as designing, permitting, planning, and reviewing the stormwater-related infrastructure; operation, maintenance, repair and replacement of the infrastructure; and the improvement or enhancement of the infrastructure related to the approved public facilities elements of the comprehensive growth management plan for the City.

*Unimproved land.*

- (1) Any undeveloped land regardless of its ~~zoning~~ land use classification by the Palm Beach County property appraiser; and or
- (2) Any property which ~~does not~~ contains less than 500 square feet of ~~any~~ impervious area.

*Year.* The City's fiscal year commencing on October 1 and continuing to and including the next succeeding September 30, or such other annual period as may be prescribed by law.

*Uniform collection method.* The method to be utilized by the City for the year commencing October 1, 1991, and each year thereafter for the billing, collection and enforcement of the payment of the stormwater management assessments, as authorized pursuant to F.S. Section 403.0893, as amended and supplemented, and F.S. Chapter 197, as amended and supplemented.

Section 4. Title 5, "Public Works," Chapter 56, "Stormwater," Section 56.15, "Imposition of Stormwater Management Assessment, Classification and Criteria," of the Code of Ordinances is hereby amended as follows:

**Sec. 56.15. - IMPOSITION OF STORMWATER MANAGEMENT ASSESSMENT, CLASSIFICATION AND CRITERIA.**

- (A) A stormwater management assessment is hereby imposed on each parcel of land, other than nonassessed property, within the benefited area.
- (B) For purposes of imposing the stormwater management assessment, all parcels of land, other than nonassessed property, shall have one of the following classifications and may be entitled to additional discounts pursuant to Section 56.16:
  - (1) Developed property:

- (a) Residential property.
- (b) Nonresidential property.
- (c) Condominium property.

(2) Unimproved land.

- (C) The stormwater management assessment on developed property shall be fair and reasonable and levied in proportion to the special benefit each parcel receives by the use of the system, including such additions, extensions and improvements made thereto. It being recognized that both developed property and unimproved land contributes stormwater runoff, and absent the utilization of the system, the use, enjoyment, and value of each parcel will be diminished in proportion to the uncontrolled stormwater runoff attributable to each such parcel. It is also recognized that each user of the system derives a special benefit from the effective operation and maintenance of the City's system.

Section 5. Title 5, "Public Works," Chapter 56, "Stormwater," Section 56.16, "Establishment of Rates for Stormwater Management Assessments," of the Code of Ordinances is hereby amended as follows:

**Sec. 56.16. - ESTABLISHMENT OF RATES FOR STORMWATER MANAGEMENT ASSESSMENTS.**

- (A) (This subsection shall remain in full force and effect as adopted.)
- (B) (This subsection shall remain in full force and effect as adopted.)
- (C) The annual rate of stormwater management assessments for the various classes of property (other than nonassessed property) within the benefited area shall be as follows:
  - (1) *Developed Property:*
    - (a) For residential properties, a four-tiered stormwater management assessment structure is established to recognize the wide range of impervious area square footage that exists among the residential properties in the City. The four tiers of impervious area and the associated SWUs assigned to each tier are as follows.

| Tier | Impervious Area<br>(square feet) | Stormwater Billing Units<br>(SWUs) |
|------|----------------------------------|------------------------------------|
| 1    | 500 to 2,000                     | 2.70                               |
| 2    | 2,001 to 5,000                   | 6.40                               |
| 3    | 5,001 to 7,000                   | 11.90                              |
| 4    | 7,001 to 10,000                  | 16.10                              |

~~The impervious area square footage of common area elements will be apportioned equally to all parcels within the platted subdivision. The total impervious area of a property within a platted subdivision will be the sum of the property's individual impervious area and the appropriate portion of the impervious common area.~~

For each residential property with less than or equal to 10,000 square feet of impervious area, the property shall be assigned to one of the four tiers based on the impervious area associated with the property. The annual stormwater management assessment for a residential property shall be the annual rate for one SWU, multiplied by the number of SWUs assigned to the property based on the impervious area Tier., ~~multiplied by twelve (12).~~ For each residential property, with more than 10,000 square feet of impervious area, the annual stormwater management assessment shall be determined as the annual rate for one SWU, multiplied by a numerical factor of SWUs, to be determined by dividing the total impervious area of the property (in square feet) by the impervious area square footage of one SWU., ~~and multiplied by twelve (12).~~

Additionally, the owner of residential property within a platted subdivision shall be responsible for the payment of the corresponding prorated portion of Common Elements included in the assessment of all the parcels within the platted subdivision. The total impervious area of the Common Elements within the respective platted subdivision shall be summed, divided by the impervious square footage of one SWU, and further divided by the number of individually owned parcels within the subdivision. The annual stormwater management assessment for a residential property within a platted subdivision shall be the annual rate for one SWU, multiplied by the number of SWUs assigned to the property based on the impervious area Tier, or the number of SWUs determined specifically for properties within more than 10,000 square feet of impervious area, plus the number of SWUs associated with their prorated portion of Common Elements, multiplied by twelve (12).

- (b) The annual stormwater management assessment for a residential condominium unit or cooperative unit shall be the annual rate for one SWU, multiplied by a numerical factor of SWUs to be determined by dividing the total impervious area (in square feet) of the

~~property condominium or cooperative inclusive of any associated one or more Common Elements within the Condominium property, (in square feet) by the impervious square footage of one SWU, and further divided dividing by the number of condominium units, and multiplied by twelve (12).~~

(c) The annual stormwater management assessment for a singly-owned multifamily residential property shall be the annual rate for one SWU, multiplied by a numerical factor to be determined by dividing the total impervious area of the property (in square feet) by the impervious square footage of one SWU., ~~and multiplied by twelve (12).~~

(d) The annual stormwater management assessment for developed nonresidential property shall be the annual rate for one SWU, multiplied by a numerical factor to be determined by dividing the total impervious area of the property (in square feet) by the impervious square footage per one SWU., ~~and multiplied by twelve (12).~~

(2) *Unimproved Land.* The annual stormwater management assessment for a parcel of unimproved land shall be the annual rate for one SWU, multiplied by a numerical factor of one (1) SWU ~~SWUs equivalent to the impervious Area Tier 1 SWUs of a residential property, and multiplied by twelve (12).~~

(D) The determination of impervious area and total area of a parcel shall be based on data from the Palm Beach County Property Appraiser's Office, Palm Beach County Board of County Commissioners Information Systems Services, geographical information system analysis provided by the City of Delray Beach, from aerial photographs, imagery, as built, and/or from information provided by the owner of such parcel if the information, as set forth above, is found to be incorrect by clear and convincing evidence, as determined in the sole discretion of the Director. Information provided by an owner shall include, at his or her own cost, such information requested by the Director, including survey data certified by a professional land surveyor and/or engineering reports prepared by a professional engineer acceptable to the Director.

Section 6. All ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Section 7. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 8. Specific authority is hereby given to the City Clerk to codify this Ordinance.

Section 9. This Ordinance shall become effective upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_ day  
of \_\_\_\_\_ 2025.

ATTEST:

\_\_\_\_\_  
Alexis Givings, City Clerk

\_\_\_\_\_  
Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_