

GOLDEN BEACH, FLORIDA

ORDINANCE NO. 430.97

AN ORDINANCE OF THE TOWN COUNCIL OF GOLDEN BEACH, FLORIDA; REGARDING THE STORMWATER UTILITY FOR THE TOWN, WHICH IS CODIFIED AT ARTICLE IV (STORMWATER UTILITY) OF CHAPTER 42 (UTILITIES) OF THE TOWN CODE; AMENDING DEFINITIONS; MAKING CERTAIN FINDINGS AND DETERMINATIONS; RATIFYING THE STORMWATER UTILITY FEE; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; DIRECTING THE TOWN MANAGER TO MAINTAIN CERTAIN RECORDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 393.93 codified at Article IV (Stormwater Utility) of Chapter 42 of the Town Code, a stormwater utility for the Town was established June 29, 1993; and

WHEREAS, the Town has adopted a Stormwater Master Plan for capital improvements to facilitate the containment and drainage of stormwater in the Town which is a necessary public purpose for the health, safety and welfare of the Town; and

WHEREAS, the Town Council desires to review the provisions of Article IV in preparation for the commencement of financing and construction of stormwater utility capital improvements and the maintenance and operation of the stormwater management system with clarification of definitions and the ratified intent to have a dependable fee structure collection process for a valuable revenue stream, which is consistent with the original intent of the Town Council at the time ordinance No. 393.93 was originally enacted; and

WHEREAS, the Town Council asserts the Town's obligation to bill and collect fees from customers of the Town's stormwater utility who have received the benefit of the service (which is a planning, design, implementation and maintenance process) which they have and will receive as all other property owners in the Town have;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the above preambles are true and correct and are hereby adopted, and that Article IV of Chapter 42 of the Town of Golden Beach is hereby amended to provide as follows:

"CHAPTER 42. UTILITIES

• • •

ARTICLE IV STORMWATER UTILITY

Sec. 42-76 Purpose: Authority: Implementation.

The purpose of this article is to implement the provisions of Section 403.093(1), Florida Statutes, and does hereby createing a Town-wide Stormwater Utility and hereby establishes adopting stormwater utility fees, as provided in this article. sufficient to plan, construct, operate and maintain the stormwater management program required by Section 403.0891(3), Florida Statutes.

Sec. 42-77 Definitions.

The following, when used in this article, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

• • •

Stormwater Utility Fees...

Undeveloped Property shall mean any buildable lot in the Town that is not developed property.

Watershed...

Sec. 42-78 Findings and Determinations.

...

It is hereby determined and declared as follows:

(a) The Town desires to create, implement and maintain a Stormwater Management Program to maintain and improve water quality, to control flooding that results from rainfall events, to deter unmanaged rainwater from eroding sandy soils, to deter the disruption of the habitat of aquatic plants and animals and to provide for the collection of Stormwater Utility Fees for those expenses connected with the planning, constructing, operating and maintaining of a Stormwater Management Program.

(b) The collection of and disposal of stormwater and regulation of groundwater are of benefit to all property within the Town including property not currently served by the Program.

(c) The cost of operating and maintaining the Program should, to the extent practicable, be allocated to its beneficiaries based on their relative contribution to its need.

Sec. 42-79 Stormwater Utility Fee.

(a) A Stormwater Utility Fee is hereby established and assessed against each Developed and Undeveloped Property within the Town for services and facilities provided by the Stormwater Management Program. The amount of the Stormwater Utility Fee is hereby ratified as follows:

| | |
|--------------------------------|-----------------------------------|
| <u>Effective June 29, 1993</u> | <u>\$12.00 per ERU, per month</u> |
| <u>Effective July 1, 1996</u> | <u>\$35.00 per ERU, per month</u> |

Future fee adjustments shall be set by Resolution of an administrative order of the Town Manager after approval by the Town Council. For purposes of imposing the Stormwater Utility Fee, all ~~Developed~~ Property within the Town is classified into the following ~~two~~ three customer classes:

- (i) Residential Developed Property; ~~and~~
- (ii) Nonresidential Developed Property; ~~and~~
- (iii) Undeveloped Property.

The Town Manager or his/her designee is directed to prepare a list of lots and parcels within the Town and to assign a classification of Residential Developed Property, ~~or Nonresidential Developed Property, or Undeveloped Property~~ to each lot or parcel.

(b) In the Town of Golden Beach, it is hereby established that each Dwelling Unit of Residential Developed Property shall be the equivalent of one ERU, that each Undeveloped Property (vacant buildable lot) shall be the equivalent of one ERU and that for all Nonresidential Developed Property, 8,000 square feet of Impervious Area shall be the equivalent of one ERU.

(c) The following procedures and criteria are to be used to determine rates for the services and facilities of the Stormwater Management Program:

- (1) Each Dwelling Unit of Residential Developed Property and each Undeveloped Property (vacant buildable lot) shall be assessed a Stormwater Utility Fee calculated by multiplying the rate for one ERU by the number of ERUs allocated to the property in accordance with Section 4(b) hereof.

...

Sec. 42-80 Same Collection of Stormwater Utility Fee: Liens.

(a) The Stormwater Utility Fee shall be billed to the owner, of record of each Developed and Undeveloped Property...

...

(e) For Stormwater Utility Fees which become more than 60 days past due and unpaid, the Town shall cause to be filed in the office of the Clerk of the Circuit Court of Dade County,

Florida, a notice of lien or statement showing a legal description of the Developed or Undeveloped Property against which the lien is claimed, its location by street and number, the name of the town, and an accurate statement of the fees and late charges then unpaid. A copy of such notice of lien shall be mailed within a reasonable time to the owner of the Developed or Undeveloped Property involved as shown by the records of the tax collector of Metropolitan Dade County. No such lien shall be enforceable by the Town unless this notice is filed within six months from the date the fees and late charges become a lien as established in this section.

...

(h) The Town Manager or his designee is authorized and directed to certify upon request the amount of fees, late charges and interest accrued, which are due and owing to the Town for any Developed or Undeveloped Property which is subject to payment of said fees, or the Town Manager may certify that no fees, late charges or accrued interest are due and owing."

Section 2. Conflict That all ordinances or parts of ordinances, all Town Code sections or parts of Town Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 3. Severability That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, clauses, sentences and phrases of this Ordinance but they shall remain in effect, notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. That it is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance, shall become and be made a part of the Code of the Town of Golden Beach; that the sections of the Ordinance may be renumbered or

relettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 5. Effective Date. That this Ordinance shall become effective immediately upon its adoption on second reading.

The Motion to adopt the foregoing Ordinance on first reading was offered by Vice Mayor Chikovsky, seconded by Councilwoman Lowrance and on roll call the following vote ensued:

| | |
|-----------------------|------------|
| Mayor Cuenca | <u>Aye</u> |
| Vice Mayor Chikovsky | <u>Aye</u> |
| Councilwoman Addicott | <u>Nay</u> |
| Councilman Fistel | <u>Aye</u> |
| Councilwoman Lowrance | <u>Aye</u> |

PASSED AND ADOPTED on first reading this 21st day of October, 1997.

The Motion to adopt the foregoing Ordinance on second reading was offered by Councilwoman Lowrance, seconded by Vice Mayor Chikovsky and on roll call the following vote ensued:


| | |
|-----------------------|------------|
| Mayor Cuenca | <u>Aye</u> |
| Vice Mayor Chikovsky | <u>Aye</u> |
| Councilwoman Addicott | <u>Nay</u> |
| Councilman Fistel | <u>Aye</u> |
| Councilwoman Lowrance | <u>Aye</u> |

PASSED AND ADOPTED on second reading this 18th day of November, 1997.

ATTEST



ROBERT JOHNSTON
INTERIM TOWN CLERK



MAYOR JUDY CUENCA

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



JON M. HENNING
TOWN ATTORNEY